

**MAUI PLANNING COMMISSION  
REGULAR MEETING  
MAY 22, 2012**

**ACCEPTED 08-14-2012**

**A. CALL TO ORDER**

The regular meeting of the Maui Planning Commission was called to order by Chairperson Kent Hiranaga at approximately 9:05 a.m., Tuesday, May 22, 2012, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Mr. Kent Hiranaga: . . . Maui Planning Commission. Today is May 22<sup>nd</sup> 2012 and we have a bare quorum. Commissioner Shibuya, Commissioner Wakida, Commissioner Hedani, Commissioner Lay and myself are present. The first order of business, I'll open the floor to public testimony regarding any agenda item. Is there anyone here that wishes to provide public testimony at this time? Mike Moran, you may speak now or you may wait till the agenda item comes up. Please come forward and identify yourself and limit your testimony to three minutes. Thank you.

Mr. Mike Moran: Good morning everyone and thank you for your service to the community. I appreciate the opportunity to address you this morning. My name is Mike Moran and I'm testifying for the Kihei Community Association (KCA) concerning Pacific Rim Land's request for a land use change. KCA is opposed to these changes at this time. We commend Pacific Rim Land for initiating a meeting with the KCA to discuss their proposal and their follow up after the meeting with written correspondence to clarify their position and reasons for the proposed changes. However, our association opposes these changes as follow: Pacific Rim Land states the facility is within urban growth boundaries, but presently these are no directed growth boundaries in the South Maui District and we will not know the status until the Maui Island Plan is approved and adopted by the Council. Therefore we believe this request must be delayed until after the Maui Island Plan is adopted. This facility has functioned for decades using State and County Special Use Permits. These permits have to be reviewed periodically which we believe is a good practice for the community. The proposed change would require spot zoning and to go from Ag to Urban, and our association is not in favor of this practice. Finally, the proposed changes would open up this area to numerous unfavorable and unpleasant land uses. While we understand Pacific Rim Land and their leasee, Goodfellow Brother's advice that they do not plan any changes to the current operations, these zone changes, land use changes would offer opportunities for drastic modifications to the present use by Pacific Rim Land or any future owner. KCA has been made very aware of such drastic alterations of use by actions right down Piilani Highway, also mauka with the proposed Piilani Promenade because land use went from Ag to Urban and so requested by a prior land owner. Mahalo.

Mr. Hiranaga: Questions Commissioners? I have a question Mr. Moran.

Mr. Moran: Yes sir.

Mr. Hiranaga: When you say the Kihei Community Association is against this proposal, is this based upon a vote by the Directors or you have a vote done at a general committee? How is the position determined?

Mr. Moran: The position is determined by the Board of Directors. And how we arrived at that, we

seek public input at community meetings, at committee meetings, via our website, we appeal to the community. We have run into this issue before. If someone were to say, well do you have a scientific poll that gets all residence? No. We're like anyone else as a volunteer, all volunteer, unfunded organization, we have no way to give a scientific proof of what the community wants. And, yes, there's always support and detractor for any issue, but we try and arrive at an impartial decision. And again that's why we commend this group that's sitting here in the first row for coming in to meet with us and discuss it and we try and arrive at what we think is a fair decision for all involved in the community.

Mr. Hiranaga: How many directors and how often are elections held?

Mr. Moran: Presently we have 10 directors and we have annual elections.

Mr. Hiranaga: I think other Commissioners now have questions. Commissioner Shibuya?

Mr. Warren Shibuya: Mr. Moran, thank you for testifying and sharing your manao. I was very interested in finding out if there's other alternative methods or means in which the rock crushing facility can be placed? Right now you're saying no can, no do.

Mr. Moran: We're saying we don't feel that there's a need to change the land use. We have no objection to the project continuing. It has for decades. We did poll our community as best as possible to see if there were any objections over the last decade. We haven't found one, so we have no objection to the project continuing. Our concern is changing zoning, changing land use because that would open up to others at a future time using this for other high-tech projects. It could be used for, in fact the present owners did give us information saying, well, yes, this change of land use, someone else could come along and put in asphalt producing plant. Well, our community doesn't want that, so that's the kind of thing that we're looking at. We have no objections of what they're doing. They're fine. They can continue to do it. They're good neighbors, but our concern is changing the zoning, changing the land use that that would open up the door for other not popular, not items that we feel is not conducive to our community.

Mr. Shibuya: Thank you. I'm just more interested in terms of looking at alternatives. When you say you don't want to change it, then you're allowing certain things like the high school to be built, the tech center that has already been there. Now you have the sewage treatment plant and what other alternatives around the sewage treatment plant would you offer?

Mr. Moran: Again, maybe I'm not getting your question. Sir, we don't object to what they're doing. What we would object to if the zoning and the land use were changed, and then it would be legal for someone to come in and put in, again, using that example, an asphalt producing plant, we don't feel that that's what we want in our community. We don't want every industry in there.

Mr. Shibuya: Okay. Thank you.

Mr. Moran: Am I answering your question?

Mr. Shibuya: Somewhat. Because sometimes rock crushing is a heavy construction, heavy industry type of thing. But who else would want to be situated next to a sewage treatment plant?

Mr. Hiranaga: Let me, just for clarity, you're not opposed to them applying for an extension on their current SUP. You're opposed to their request for zoning change.

Mr. Moran: Exactly sir. Thank you.

Mr. Hiranaga: Thank you. Any other questions Commissioners? Commissioner Wakida?

Ms. Penny Wakida: And to clarify what you said, I think I believe I heard you say that what you approve of the current situation is then it's required to come back every so many years for another look?

Mr. Moran: Yes ma'am. Yes ma'am. We think that's a good policy to reevaluate things periodically because as a community changes, what was decided five years ago, 10 years ago, may not apply any longer so we do think that's a good practice to reevaluate things on a periodic basis.

Ms. Wakida: Okay. Thank you.

Mr. Hiranaga: Any other questions Commissioners? Seeing none, thank you.

Mr. Moran: Thank you very much!

Mr. Hiranaga: Anyone else wishes to provide testimony on any agenda item at this time please come forward. Seeing none, public testimony is now closed. Moving on to agenda item (B), Deputy Director?

**B. PUBLIC HEARING** (Action to be taken after public hearing.)

**1. PACIFIC RIM LAND, INC requesting the following land use changes for the existing Kihei Rock Crushing Facility site located at 500 East Welakahao Road, TMK: 2-2-002: 078, Kihei, Island of Maui (K. Wollenhaupt):**

- a. **Community Plan Amendment from Agriculture to Heavy Industrial (CPA 2011/0001)**
- b. **State Land Use District Boundary Amendment from the State Agricultural District to the State Urban District (DBA 2011/0004)**
- c. **Change in Zoning from Agricultural District to the M-2 Heavy Industrial District (CIZ 2011/0004)**
- d. **County Special Use Permit to conduct rock crushing operations (CUP 2011/0006)**

**a. Community Plan Amendment**

Ms. Michele Chouteau McLean: Thank you Chair. There's on public hearing item before the Commission this morning, and that's a request from Pacific Rim Land requesting four land use entitlements for their existing Kihei rock crushing facility located at 500 East Welakahao Road,

TMK: 2-2-2:78 in Kihei. They're requesting a Community Plan Amendment from Ag to Heavy Industrial, a State Land Use District Boundary Amendment from Agriculture to Urban, a Change in Zoning from Ag to M-2 Heavy Industrial, and a County Special Use Permit to conduct a rock crushing operation. Kurt Wollenhaupt is the staff planner.

Mr. Kurt Wollenhaupt: Good morning members of Maui Planning Commission. As it was indicated today's review is going to look at four moving parts. All of which we're hoping that you can proceed seamlessly and simultaneously. Setting the ground for this, this is indeed an existing operation in which it's been functioning since the construction of the Piilani Highway, commencing back in about 1979. This is all zoned on the agricultural zoning basis. And consequently as this is a 14 ½ acre site, this Commission acts as the Land Use Commission for purposes of special uses within the Ag District. As indicated earlier, this operation, the Kihei Rock Crushing Facility, functions under a current Conditional Permit which was approved by the County Council, and functions under a State Special Land Use Permit because this is ag zoning. This has, as I indicated, has been going on since 1979 through a series of renewals that, both by this body and by the County Council. It was then determined that commencing the process to make more permanent land entitlements that are congruent with the existing uses would be a half that the applicant wish to follow. That being the case, it should be a four step process. The applicant will outline it in more detail that briefly there would need to be a Community Plan Amendment to change it from its current Ag use. And then there would need to be a State District Boundary Amendment, and this would change it from its current Ag use to Urban. And the Community Plan in changing from Agriculture to Heavy Industrial sets the stage then for a Change in Zoning. The requested Change in Zoning would be to what's known as M2 Heavy Industrial of which there are limited locations on the island. What's important to note is that this body also looked at the Environmental Assessment that it was a requirement because there's a Community Plan Amendment. And during their review, they looked at the potential of uses which it was just discussed by the gentleman in the public hearing.

This project is being considered under a process called Conditional Zoning so that while the applicant is requesting an M2 change, certainly not all of the possible M2 uses are going to be allowed. In fact that was much of the debate as the Commission came upon their approval of the Finding of No Significant Impact, known as the FONSI, for the EA on January 24<sup>th</sup>. That the recommendation that's been agreed to with the applicant is to limit the uses in the M2 district in order limit potential hazardous uses, or to increase the intensity from which is currently based. Finally, as I said there was four moving parts. The three that we just talked about – the Community Plan, the District Boundary Amendment and the County Zoning – this body is all advisory. And whatever recommendation this body will agree upon will be sent to the County Council.

The final step then is a County Special Use Permit. That essentially replaces the State Land Use Commission Special Use Permit. The County Special Use Permit is specifically for two activities that require a higher level of review, not outright permitted in the M2, that requires this body to take a more detailed look at the potential impacts. And the request the applicant wishes to place on a County Special Use Permit are for two items. One is for rock crushing and the other is for explosive storage. That being the case, this body actually, and I think this is the first time this have ever happened, this body actually makes an approval of that. That approval then has to be approved by the Council so there's a little bit of different process there. That gives the brief background and the applicant has all of their experts in drainage and traffic and of course the team at Munekiyo and Hiraga will be presenting their power point if you don't have any questions for me at this time.

Mr. Hiranaga: We'll hold off questions till after the presentation. Thank you.

Ms. Cheryl Okuma: Good morning Chair Hiranaga, Commissions. I'm Cheryl Okuma and Mich Hirano is here from Munekiyo and Hiraga. And we're here today on behalf of the applicant regarding the Kihei Rock Crushing Facility. And as you've heard there are four things that we are requesting today – the State Land Use District Boundary Amendment, the Community Plan Amendment, Change in Zoning and County Special Use. And as was mentioned, this process before you today is just, you know, the beginning of an approval process as this will go on to the County Council.

Next slide, this is our project team, and we do have representatives here today. The owner and applicant, the owner of this property is Pacific Rim Land Incorporated, and the operator of the Kihei Rock Crushing Facility is Goodfellow Brothers. We have the civil engineer from Warren Unemori Engineering, and the traffic engineer from Austin Tsutsumi and Associates, and of course, our company, Munekiyo and Hiraga.

This is a regional map. This is the approximate location of the project site. And basically the project site involves a – it's set back about 400 feet from the Piilani Highway and it's buffered by a growth of kiawe trees. To the immediate north is the Kihei Wastewater Treatment Facility. And beyond that, the Elleair Golf Course and the Maui Research and Tech Park. This area also includes the Azeka, Piilani and Kihei Malls, and to the north is the Kihei Community Center Aquatic Center. To the east is the Haleakala Ranch Cattle pasture land. To the south is Wailea Makena and . . . (inaudible) . . . cultivation occurs there to the south. And to the west, across from Piilani Highway is a residential area.

These are just some views of the site. This is a view from the East Welakahao Road which is just off of Piilani Highway and you're looking east towards the entry gate. This is also the same entrance way to the Kihei Treatment Facility, Wastewater Facility. This is a view looking east, towards the crushing plant and the stock pile area. And this is the view near the exit driveway. This is a dirt road that goes out to Kanani Drive which then goes onto Piilani Highway. That's a signalized intersection. You're looking east towards the crushing plant. And this is basically the site plan. This is the entrance off of East Welakahao Road. You're looking at the job site office there. And just some of the areas, crushing plant area, materials storage area. This is exit driveway on to Kanani Drive. And this is about a 4.5 – 14.5 acre site.

A little bit of background that's already been mentioned. This Commission did review the final EA on January 24<sup>th</sup> of this year and issued a Finding of No Significant Impact determination. And again, what's currently before you is the District Boundary Amendment, Community Plan Amendment, Change in Zoning and County Special Use Permit.

This slide shows a summary of what the applicant is proposing as far as land use changes for the Kihei Rock Crushing Facility. And as you can see the land use designation for the State Land Use District Boundary existing is Agriculture. The request is for Urban. The Kihei Community Plan designation, existing, is Agriculture. And the request is for Heavy Industrial. For Maui County Zoning, the existing zoning is Agricultural, and the request is for a proposed M2 Heavy Industrial. And the County Special Use Permit here would be needed. This is a discretionary permit which would be needed for these operations, and it would require a permit issuance, you know, at a particular point in time.

Currently the Kihei Rock Crushing Facility is operating under the State Land Use Special Use Permit until October 2016. And there's also a County Conditional Permit valid until November 2017. And the purpose of this request basically is that Pac Rim has been operating for over 30 years as a heavy industrial urban use type of facility. And so at this point in time the applicant is seeking the appropriate land entitlements in order for that long term use. And so therefore the proposed request are the way they are, Urban Heavy Industrial, M2.

The State Land Use Boundary Amendment has certain criteria and so we'll just go over some of those criteria in terms a review of this request. First of all lands characterized by city light concentrations. The Kihei Rock Crushing Facility is adjacent to the urban areas of Kihei, and it is adjacent to the Piilani Highway. And it's currently served by existing infrastructure such as waste water, water, utilities, electrical utilities are present, proximity to center and employment. The Kihei Rock Crushing is located in Kihei which is an area that is characterized by various visitor oriented and commercial industries all along that Kihei region to the south, Makena, Wailea. Availability of basic services, again, this facility is currently served by private potable water and sewer systems, and does have electrical, cable and T.V. services also available. There are major highways that are in the proximity of the Kihei Rock Crushing Facility. That being Piilani Highway, Mokuele Highway, South Kihei Road. There are also health care facilities that are available, both fire and police services are also available in Kihei. Existing Kihei Police Station and the Kihei Town Center about a mile away. Fire Station to the south about a mile or two away. Sufficient reserve areas for foreseeable urban growth. The Kihei Rock Crushing Facility is in the proposed urban growth boundary of the draft Maui Island Plan which has a 2030 forecast horizon.

Lands that are reasonably free from adverse environmental effects. This Commission did review the final EA and made a determination of a Finding of No Significant Impact. Lands contiguous with proposed urban designated areas. The Kihei Rock Facility is on land that is contiguous to the proposed urban designated areas which is indicated in the draft Maui Island Plan. Appropriate for a new urban concentration. The Kihei Rock Crushing Facility is shown in the urban growth boundary.

In terms of the Community Plan Amendment, here are some of the criteria for consideration. First, meeting the intent of the County policy and current General Plan. And the General Plan is currently being updated. But in terms of strengthening the local economy, the Kihei Rock Crushing Facility has provided jobs over these 30 years, and serves construction projects within the region. It's done that for over 30 years and continues to do so. Improving physical infrastructure. In 2006, the Kihei Rock Crushing Facility supported construction improvements through Piilani Highway, and also uses R1 reclaimed water in terms of irrigation and dust control. Promotes sustainable land use and growth management. The Kihei Rock Crushing Facility project site is in a directed urban growth area which is proposed in the draft Maui Island Plan. And it is in a location that is nearby construction projects in South Maui, and as such it's cost effective as far as infrastructure improvements. Meeting the intent of the Kihei Community Plan, Kihei-Makena Community Plan. Land use – in the event of natural disasters, this facility provides the site for equipment and storage in order to mobilize for emergencies related to fire, flood and tsunami. And in fact, it has been utilized for that in emergencies that have occurred in the past. Economic activities – the Kihei Rock Crushing Facility employes residents and support construction in an area that is characterized in this region by visitors and business industries. Physical and social infrastructure – the proposed action is in an area that is denoted for minimal flooding and will not change drainage patterns.

This is a picture of a slide of the draft Maui Island Plan urban growth boundary. This is the project site. And this is the new Kihei Police Station that just began construction, I believe, this year. And then to the immediate north of that is the Kihei Wastewater Reclamation Facility. And again, this project site is surrounded by an agricultural buffer and setback 400 feet from the Piilani Highway.

Change in Zoning criteria. Conformance to the General Plan, objectives and policies of Community Plan. Again as mentioned, the project is a proposed directed urban growth. Consistency with applicable community plan use map. This facility's existing operation is in the proximity to public quasi-public such as the Kihei Treatment Plant, commercial, project district and single-family designations. Meets the intent of the requested district. Since 1979, after over 30 years, the Kihei Rock Crushing Facility has been an existing operation as a heavy industrial use that is consistent with the M2 Heavy Industrial. No adverse effects on parks and public services. No adverse impacts on the cultural, economic and environmental character of the surrounding area. Again this facility has been in use for over 30 years and it has not impacted the surrounding area.

This is a slide of the proposed M2 Heavy Industrial permitted uses. And, you know, as was mentioned, the Code actually allows for a varied range of uses within the M2 zoning. And the applicant is, at this point, conditioning the zoning change to a limited range of uses that are similar to the existing uses. So this is actually a reduced list from what you will see in the Maui County Code. And the proposed list is reasonable in terms of current range of uses. For example, there are already existing storage yards. Storage yards are allowed, are permitted uses in the M2. There's already existing aggregate storage on the Kihei Rock Crushing Facility. There's already an existing job administration office. And again, an office is one of the permitted uses in M2 zoning. And there's existing rock crushing, and of course, rock crushing would require County Special Use Permit.

Now in terms of this slide, as was mentioned, the applicant did go to the Kihei Community Association Planning Commission to provide an overview of the project, and there was discussion there, and there were concerns about future uses. And so as a result of that, the applicant pack room had taken a look at that issue that's been raised and came up with this, this listing, which we believe is reasonable. Indicates moderate uses, and is value added and high waged type of industry uses. Again the Kihei Rock Crushing area is away from any residential area. The nearest residential area is across the highway, and it is also outside of the SMA. And as you could see from the draft Maui Island Plan, it is within an agricultural buffer. So these are just some examples, apparel manufacturing, wood product manufacturing, computer electronic product manufacturing, printing and related support activities. These are, you know, just the types of uses that the applicant has come up with.

So in summary, just going over this are the first request is the State Land Use District Boundary Amendment from Agriculture to Urban, and the request meets the eight criteria of the administrative rules as we've just gone over in the slide. The Kihei Rock Crushing Facility is in a directed urban growth and is currently served by existing infrastructure for water and sewer and electrical. It is also surrounded within an agricultural buffer for its heavy industrial use. The second request is for the amendment to the Kihei Community Plan from Agricultural to Heavy Industrial. And this would achieve consistency of land use designations for heavy industrial with the current and existing heavy industrial use which has been ongoing for over 30 years at Kihei Rock Crushing. The Kihei

Rock Crushing has supported and does support construction projects. There is a baseyard there for the Goodfellow Brothers. And it does provide associated support for employment and responses during times of emergencies. The third request is for a Change in Zoning from Agricultural to M2 Heavy Industrial. Again, because the Kihei Rock Crushing Facility has been in operation for over 30 years, this land has not been an agricultural use. And in fact, according to the State of Hawaii designation, it is classified with low productivity rating in the agricultural district. And the fourth request which is a discretionary permit is the County Special Use Permit. Again, currently, the facility has been operating under current State Special Use Permit and County Conditional Permit, and we believe this project meets, the request meets the requirements for a County Special Use Permit. Thank you and we're available for any questions.

Mr. Hiranga: Thank you. At this time I'm going to open the floor to the public hearing. Is there anyone here that wishes to testify regarding this agenda item, please come forward and identify yourself and please limit your testimony to three minutes.

Mr. George Enriques: Good morning. My name is George Enriques.

Mr. Hiranaga: Could you please speak into the microphone?

Mr. Enriques: Good morning. My name is George Enriques and I'm against this project. I think there's too much dust down in Kihei. I'm a long time resident of Kihei. We had a place down in Kihei in the 30's. My property – I live on Kanani Road and it's so dusty now. And now Goodfellow is going into paving and they're going to expand the operations, so going to be more dust. Up to '79 I didn't have that much dust. Now it's so dusty. Can you imagine if they going to expand the operation. And I'm against this project.

Mr. Hiranaga: Thank you.

Mr. Enriques: It's not right to have industrial in residential area. Anyway, why can't they find another place?

Mr. Hiranaga: Thank you. Questions Commissioners? Mr. Enriques? Mr. Enriques, Commissioner has a question for you. Commission Wakida?

Ms. Wakida: I'm not that familiar with the Kihei residential area. Where do you live in relation to the  
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Mr. Enriques: I live on Kanani Road off Piilani, just off Piilani.

Ms. Wakida: And that is?

Mr. Enriques: Down wind from the project.

Mr. Hiranaga: A little south of the project site.

Mr. Enriques: Yeah. The wind blows that way.



Ms. Wakida: Okay, so you're experiencing a lot of dust from this particular –

Mr. Enriquez: More and more dust because I guess they expanding the operation. They going in to paving.

Ms. Wakida: But you are getting it from that particular area, from that site?

Mr. Enriquez: I would think. Dust is coming from someplace. It's so dusty. Right at '79 it wasn't that bad. . . (inaudible) . . . We had a place in Kihei. Can they find another place for this rock crushing place? Can you imagine what if they expand the noise is going to be? There going be more dust. I don't think it's right.

Mr. Hiranaga: Thank you. Commissioner Shibuya? Another question Mr. Enriquez.

Mr. Warren Shibuya: Mr. Enriquez, I just wondering if there was a dust, a barrier, located on Kanani Road or close to that border of Kanani Road?

Mr. Enriquez: I think this project probably is going be about 400 yards away . . . (inaudible) . . .

Mr. Shibuya: 400 yards away?

Mr. Enriquez: . . (inaudible) . . . maybe 400, 500. Not even that I think. I'm right off Piilani, on Kanani Road, right up against the highway.

Mr. Shibuya: Would you think that you get some dust from the highway as well as dust on the neighboring areas?

Mr. Enriquez: I guess so, but prior to '79 I didn't have that much dust. I'm always cleaning the house.

Mr. Shibuya: What if they would put a dust fence or a barrier along that area?

Mr. Enriquez: They're higher than I am.

Mr. Shibuya: They're higher. No, I'm just saying some means of mitigating some of that dust.

Mr. Enriquez: They can clean my house every month, yeah, that's fine.

Mr. Shibuya: Yeah, I use to live in Camp Five Puunene, so I know what dust is.

Mr. Enriquez: I live . . . (inaudible) . . . Kihei too.

Mr. Shibuya: Yeah, yeah. I know what dust is. Thank you.

Mr. Enriquez: It's really dusty down in Kihei, especially now without, you know. . . (inaudible) . . .

Mr. Shibuya: I sympathize. Thank you.

Mr. Hiranaga: Thank you. Commissioner Hedani has a question for you.

Mr. Enriquez: Yes?

Mr. Hiranaga: Commissioner Hedani has a question.

Mr. Wayne Hedani: Mr. Enriquez, I agree with you that Kihei has a lot of dust. I've seen dust storms that – actually, not from this particular site - it's coming off of agricultural operations and agricultural fields that are windward of the Kihei area. And when they're plowing the fields, and when they don't have the irrigation, and they don't have their props down, you actually see clouds of dust headed towards Kihei, and I'm sure it affects all the residents down there and that's in agricultural use. And that's just my comment and I don't know if you've observed that yourself or whether or not you tried to identify whether it's agricultural or from this particular facility.

Mr. Enriquez: Get dust all over the place. It's . . . (inaudible) . . . you know, it's getting worse. . . (inaudible) . . . I've been on Kanani Road since 1970's, it seems to me it's getting worse and worse. Can you imagine if they expand operations? Going into paving and stuff like that, and all that noise and all that dust.

Mr. Hedani: Thank you.

Mr. Hiranaga: Thank you. Any other questions Commissioners? Seeing none. Thank you very much.

Mr. Enriquez: You're welcome.

Mr. Hiranaga: Anyone else wishes to provide testimony of this agenda item please come forward. Seeing none, public hearing is now closed. I'll open the floor to Commissioners for questions for the applicant or staff. Commissioner Hedani?

Mr. Hedani: Just a question for Cheryl. Under the permitted uses slide that you have and the recommendation that Kurt has provided under (M) from Special Uses, it says "asphalt manufacturer of refuel and asphalt and concrete plant." What is that?

Ms. Okuma: Mich will address that.

Mr. Mich Hirano: My name is Mich Hirano with Munekiyo and Hiraga. The asphalt manufacturing is like black top paving material and making asphalt hot mix in a plant. The refueling of asphalt, I'm not sure what that means. That is taken literally by the way it is described in the Code. I know it does involve fuel and mixing fuel with the asphalt. I think oil, an oil based product.

Mr. Hedani: So refueling could be something that's part of the asphalt mix process?

Mr. Hirano: I understand that, yes. I think so.

Mr. Hiranaga: Do you have an applicant's representative that might know the answer to that question?

Mr. Hirano: Ken Gift is the General Manager at the Kihei Rock Crushing Facility.

Mr. Hiranaga: Thank you. Please identify yourself.

Mr. Ken Gift: My name is Ken Gift. I'm with Goodfellow Brothers, Commissioners, and right now we have no immediate plans to do that. But the idea is to retain the option at some point to batch asphalt for uses and where paving is required.

Mr. Hiranaga: So the question I believe Commissioner Hedani had was what is refueling asphalt concrete plant?

Mr. Gift: I think that the key thing there is asphalt manufacture. What that's talking about, the wording on that is not from the applicant. The wording is from the Code so it's an awkward way of saying that. But there's a mixture of oil and aggregates that make asphalt, and it would be the combining of the two that's being mentioned there.

Mr. Hiranaga: Commissioner Hedani?

Mr. Hedani: Ken, if there was a condition placed on the rezoning request to have asphalt manufacturing be a specific item that would be subject for further review in the event it was proposed. Would you have any objection to that?

Mr. Gift: That's actually how it's listed on there now. It would require a Special Use Permit to be able to do that.

Mr. Hedani: So we would have – it would have to come before this Commission again in any reason, in any case?

Mr. Gift: That's correct.

Mr. Hedani: Okay, so it's not something that's automatic whether you're M-2 Heavy Industrial zone?

Mr. Gift: That's correct.

Mr. Hedani: Okay.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Just a question of clarification or follow up, you know, related issue here. Then the State of Hawaii, Department of Health Noise, Radiation, Indoor, Air-Quality Branch would then be called in to assess emissions relating to asphalt type of mixture manufacturer?

Mr. Gift: Yes. We have noise permits and various permits with the Department of Health for all of our operations and if there was any change in the operations then they would need to be assessed and permitted as well.

Mr. Shibuya: Right. And so you'll be complying with the State standards. Thank you.

Mr. Hiranaga: Commissioner Lay?

Mr. Ivan Lay: There have been some concerns on the rock crushing about the dust. Over the past years has there been any improvements to help to somewhat neutralize this dust problem?

Mr. Gift: Well and it's interesting to hear the comment because we have not had dust complaints come to us. But we maintain a vegetative buffer between us and the highway, and we use – my office is right in there so we get any dust that comes in, we get the first of it. So we use reclaimed water. As a dust abatement and we keep our – we don't disturb the piles anymore than we need to so that they, they tend to be stable.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: This is addressing the noise issue. Are your hours of use limited during the day and weekends?

Mr. Gift: Yes. Yeah, we have a noise permit that has limited use on times.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Good morning. The term explosive storage is mentioned several times in here. Are you currently storing explosives?

Mr. Gift: Yes. Yeah, we have storage explosives there for as long as we've had that location and they're up in the southeast corner of the parcel, and they are well away. There's certain minimum distances they have to be away from any occupied structures that are outside of the operation itself and they meet that. They actually, the modern technology in blasting, we have much less in explosive stored there now than we use to in the past. Maybe 25% of what we had before that's actually explosives. The rest of it is, we have electronic detonators. We have material that works with explosives to create the blast. And that's all monitored, and, you know, we have regular inspections by ATF. Fire Department and Police Department regularly check on it. And our individuals that are in charge of that, every day they check on it and plus we have a camera that's on. We've never had any troubles.

Ms. Wakida: Okay. Thank you.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Just a follow up related to this issue again. I know that modern technology has come out with more sophisticated type of explosives that the volume of the item are less than what it was 30 years ago and so they're sort of compacted, they're brand new materials that can provide that bigger bang if you will. What total bang do you have stored? That's what I'm more concerned about. Not the volume of explosives that you hold.

Mr. Gift: Yeah as I understand it and I don't claim to be an expert on explosives and don't really want to become one, but the material we have, we have about 7,000 pounds of explosives sorted now versus maybe 50,000 pounds we had in the past. And as I understand it it's not so much that

it's more potent, but it's used in conjunction with, like a fertilizer type material so there's a reaction that happens between all of it which makes for the explosion.

Mr. Shibuya: Okay. Understand. Thank you. In other words, the equivalent tonnage of power that is stored there so it's less.

Mr. Gift: Right.

Mr. Shibuya: Okay. Thank you.

Mr. Gift: Yes, and the balance of the material is in earth and is not explosive unless it's put together in the specific application.

Mr. Hiranaga: Any other questions Commissioners? Commissioner Lay?

Mr. Lay: Yeah, I was reading in the newspaper the other day where they're gonna have, improving the highway, where they're gonna enlarge it. With your facility being located right there, that's gonna cut down a number of trucks that go across our highways from different facilities on the island, right? It would be located right there and make it, traffic, at least less congested in other areas because of its location there.

Mr. Gift: That is one of the reasons why we have used the site that way over the years is that it allows to take excess materials from project site in the South Maui area and stocked piled them there. And then when there's sufficient amount to process and recycle them into useable products. And it saves truck trips. Instead of hauling from Central Maui we are able to cut down on the trips and haul them directly through there and away there to the project.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: I have a question for our Deputy Director. If these proposed changes go through, the Community Plan Amendment and all of those, I assume those run with the land. In other words, if Kihei Rock Crushing goes out of business and the owners of the land decides to sell the property, those all stay in place.

Ms. McLean: That's correct.

Ms. Wakida: And the limited uses that are on, that was shown on the slide here, do those also go with the land?

Ms. McLean: I believe the staff recommendation is to narrow down the permitted uses that would generally be allowed with zoning conditions so that – and let's say there are 20 uses that would be allowed by the zoning. And it's being proposed to limit those to maybe 10. And those conditions, those restrictions would also run with the land. If that moves forward from the Commission that those three land use changes will go to the County Council – the District Boundary Amendment, the Community Plan Amendment, and the Change in Zoning – and those conditions would most likely be recorded against the Change in Zoning and the applicant would execute an unilateral agreement, and that would get recorded against the property so that those restrictions would also

run with the land. If the property were sold, those restrictions would continue to run with the land.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: I have a question for Cheryl. It just went out of my head. Hang on. Oh, why didn't the applicant wait until the Community Plan Amendment was passed? Because it apparently shows on here that in the draft the plan was to change that zoning in the General Plan – General Plan, sorry – so why didn't the applicant just choose to wait until that took place? Why come now?

Ms. Okuma: Oh, you mean why not wait till the General Plan runs its course?

Ms. Wakida: Yes since they've got their permit until 2016 or 2017?

Ms. Okuma: Right. I think, you know, I can go ahead and –. First of all, the current permits run in 2016 and 2017 so obviously you don't want to wait till, you know, you've absolutely expended that time. So I think in terms of timing and being able to move forward in terms of trying to achieve this kind consistency, it seems like this is actually a good time to be able to do that. But I think the other thing in terms of the draft Maui Island Plan and the urban growth boundaries that you see, there's been quite a bit of discussion that the applicant pack room just had an input at the time that this is all being discussed before the, I guess, it's the General Plan Advisory Committee. So, I think given a lot of that kind of discussion and sort of the timing of everything, the decision was, you know, to probably to move forward. But perhaps they can enlighten more on that point.

Mr. Hirano: Mich Hirano with Munekiyo and Hiraga. The applicant had wanted to change the zoning for some time even before the conditional permits were renewed. The applicant met with the County and wanted to, I guess, co-apply for a change in zoning with the Wastewater Reclamation Facility to do it. So that didn't – the timing for that application didn't coincide favorably with the County and the applicant. So they renewed the Conditional Permit and the State Land Use Special Use Permit, but they always wanted to go for a more permanent entitlement. So the – you know, the applicant was also asked to hold off the application until the M3 Zoning was in place because that might have been a more appropriate zoning and wouldn't require a County Special Use Permit. The M2 zoning has been kind of, I guess, recessed in for maybe for awhile. So, I think the applicant just needs to move forward and do this. And they're met with the Planning Department, the Long Range Division, the Current Division, and just seeing that they had to kind of control their own destiny in this particular application.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Just a quick comment on another topic. I really enjoyed the interviews that you had in here and did somebody on your staff write those or do those interviews?

Mr. Hirano: Yes.

Ms. Wakida: Yes, they were very well written.

Mr. Hiranaga: Just a follow up question for Commissioner – from Commissioner Wakida to the Deputy Director. Deputy Director, what's your opinion of the probability that the Kihei Community

Plan will be updated prior to October 2016?

Ms. McLean: Yeah, let me get my crystal ball. Well, Lanai and Molokai go first, then Hana is next. So I don't think it's likely.

Mr. Hiranaga: Not likely or unlikely?

Ms. McLean: I think it's unlikely –

Mr. Hiranaga: Unlikely.

Ms. McLean: – that the Kihei-Makena Community will be updated before 2016.

Mr. Hiranaga: Is the Kihei Community Plan third?

Ms. McLean: Hana is third, and then I believe they're following the order that it went the last time and that would put Kihei-Makena like third to last. Paia-Haiku would come before. Makawao-Pukalani-Kula would come before. West Maui would come before.

Mr. Hiranaga: Thank you.

Ms. McLean: Following the same order as last time.

Mr. Hiranaga: Thank you. Commissioner Hedani?

Mr. Hedani: I'm not sure who this question is for. You know we've heard that the Kihei Community Association is concerned about asphalt manufacturing. I would be concerned about asphalt manufacturing if I was down wind from this particular facility as well. Yet on the recommendation sheet that's coming from the Department, it looks like asphalt manufacturing and asphalt to concrete batching plant is part of the special uses that would be permitted uses under the recommendation. So are you at this point recommending approval of an asphalt manufacturing plant at that location?

Ms. McLean: What's being recommended is that would be listed as a special use so that if the applicant wanted to conduct that use they would need to get a Special Use Permit. What's also before the Commission today is a Special Use Permit but only for the rock and sand and gravel crushing and explosive storage. It's not being proposed today that those other two special uses, the asphalt manufacture and the saw mill, those would remain as special uses that the applicant isn't pursuing at this time. So if in the future they did want to pursue either of those uses, a Special Use Permit would still need to be obtained.

Mr. Hiranaga: Commissioner Hedani you're not suppose to read ahead.

Mr. Hedani: Au contrary, we're suppose to read everything that you give us before we come to the meeting. Thank you.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Yes, following up on public safety and public assurance of safety, coming back to this question is related to Mr. Gift if you wouldn't mind helping me with this. Now that you've clarified that there are smaller amounts of bang or potential explosiveness because of the new materials, they're smaller quantities stored there. And then the explosive materials have to be mixed together to become effective and that you also have it separated by the detonators. And also now we're looking at potential hazards to the community because some of these elements maybe readily available to the public. Have you establish some kind of inventory control or accounting control for home land security type of issues here?

Mr. Gift: Absolutely and you're correct that is an area of concern that homeland security has and actually . . . (inaudible) . . . firearms have had for decades and so we have meticulous reports we have to maintain and that those are reviewed and there's a periodic follow up inspections to assure that everything is in order. And we've had 100% compliance throughout the history of having those materials stored there.

Mr. Shibuya: Yeah I asked you that because it's, the public is very interested in the hearing, but they can't ask the questions so I'm asking their question.

Mr. Gift: Certainly.

Mr. Shibuya: Thank you.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: Question for Ken again. This is going back again to your natural barrier surrounding the facility to help neutralize the dust. Okay, we know that – is it . . . (inaudible) . . . that you're using to, I guess, use as a dust control?

Mr. Gift: That was what we were using until they died. And so there's kiawe and other vegetation that has grown up in its place along that perimeter and we irrigate it as needed to make sure that it is, you know, providing a lush barrier.

Mr. Lay: Because I have to say, you know, I liked it better that you're using a natural foliage as far as controlling the dust. It looks much better. But, you know, like you said, as long as it's being upkeep and, you know, we're keeping that in mind as far as the use for it to prevent dust.

Mr. Gift: Right. We also consider it to be a visual barrier so that there's vegetation that you see rather than vinyl.

Mr. Lay: Because like Commissioner Hedani, I tend to agree. We're seeing more cane field being loss. We're trying to replant with different plants and we're getting more dust from that type of movement so I wouldn't want you to be the blame when it's actually coming from someone in front of you.

Mr. Gift: Yeah, and just to follow up on that. We aren't changing that operation. We're not enlarging or increasing in this use that we're doing on there. It's gonna operate as it has so, you know, that's, the community can be at ease on that.



Mr. Hiranaga: Commissioner Hedani?

Mr. Hedani: It's for Ken again. Ken, it's interesting, you know, we get the Kihei Community Association opposing this particular change in zoning. However, the bulk of the membership of the Kihei Community Association probably required the work of this particular facility in order to facilitate the construction of the property up and down Kihei Road as well as the construction of Piilani Highway for them to secure approvals. The other beneficial thing that Goodfellow Brothers has done in the past, in my opinion, is whenever there's a massive fire that strikes the Kihei area, you folks always jump in there and cut fire breaks and prevent the fire from overrunning the entire community. And from my perspective, that's something that's beneficial to have in close proximity to the area that might be affected in this particular case. Is that something that you folks will continue to do in the future?

Mr. Gift: Absolutely. And having the equipment close by does make the response time a lot quicker to be able to get there, especially protection of property. We've had in recent years, there's been fires that threatened the Maui Meadows area and below the highway in places and we've been able to respond quickly because we have the equipment there.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Just changing, following up on Commissioner Lay's item and one of the testifiers mentioned about dust along Kanani Road. And do you have any dust barriers there or plans to or possibly having plans to mitigate some of this with vegetation?

Mr. Gift: There's quite a bit of natural vegetation. I'm not sure what the exact distance is, but from our driveway, at the wastewater treatment facility to Kanani is about a half a mile. And there's quite a little bit of natural vegetation that's along the way there. I'm sure right at the moment that Police Station construction is providing sufficient dust concerns. In our area there, the natural vegetation extends out, and there's also a natural rise that comes off of the south end of the property that somewhat shields it.

Mr. Shibuya: And this vegetation is it low lying less than a foot, or is it something that's like Wili Wili Trees?

Mr. Gift: No, it's like brush. It would be kiawe type brush and so it's some distance off the ground, but the ground level is higher as well, so you get the added benefit of that area.

Mr. Shibuya: And also you do have tobacco trees on your property, would you not?

Mr. Gift: We do not.

Mr. Shibuya: You do not. I saw in the, some report that you had tobacco trees in that area, or at least maybe in the southeast area, I'm not sure.

Mr. Hirano: Mich Hirano. Yes, there was a flora fauna study done and there was a tobacco tree found on the property. Yes.

Mr. Shibuya: Okay. And I was just looking in terms of helping mitigate some of the dust by increasing the density of that tree because it would be a two fold thing. You minimize the dust as well as you increase the environment for some endangered moth.

Mr. Hirano: There was just one, one specimen of tobacco tree, and it was on a sand pile, one of the piles when it started growing but I'm not sure whether it would be really advantageous to kind of spread that tobacco tree because then it has that endangered species character.

Mr. Shibuya: Understand. Yeah, I was looking in Kanani side, placing it closer to the border, facing Kanani because to mitigate some of that dust aspects that the testifiers mentioned.

Mr. Hirano: Yes. Thank you.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: I this is for our Deputy Director. I want to be clear on the process. If this is approved with a County Special Use Permit, the County Special Use Permit is just for the current operation, correct?

Ms. McLean: That's correct.

Ms. Wakida: So if they chose to get into another expanded business like production of asphalt, or production of anything, then they have to come back for another County Special Use Permit.

Ms. McLean: If the Change in Zoning, Community Plan Amendment, District Boundary Amendment are approved, then there are a number of industrial uses that they would be able to do outright. If they wanted to do the asphalt manufacture, continue with the rock crushing, the explosive storage, or do a saw mill, those are special uses, they would still need a Special Use Permit for those even if the industrial zoning is granted.

Ms. Wakida: And does that request come back to this Commission?

Ms. McLean: Yup. The Special Use. The Special Use Permit would come to the Commission.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I'm gonna change it a little bit for administration. I just have a question here relating with the permit number M07005. It expired on February 13, 2009. I'm assuming that you have a more current one. It was listed in our packet and so I'm – and yet you're talking about you have enough –

Mr. Hirano: Is that the noise permit?

Mr. Shibuya: Yeah, it's a noise permit.

Mr. Hirano: Yes. When the rock crushing operations will recommence. Right now they're not crushing rock. They haven't for a few years.

Mr. Shibuya: Okay.

Mr. Hirano: But when they do start up again, they will apply for a new Community Noise Permit.

Mr. Shibuya: Okay. And also the consistency in which the – and this may not be related with you but more with the staff planner because on Item #7 here, it says rock crushing facility shall be limited to periods beginning 7:00 a.m., ending at 5:00 p.m.. However, the permit says from 7:00 a.m. to 6:00 p.m., Monday through Friday; and 9:00 a.m. to 6:00 p.m. on Saturdays.

Mr. Hirano: That's correct. Yes, the –

Mr. Shibuya: So there's some kind of funny kind stuff going on here.

Mr. Hirano: We talked to the planner about that, wanted to have it consistent, but –

Mr. Wollenhaupt: There's a couple of things. Number one, if we're talking about – these are proposed recommendations. In the County Special Use Permit –

Mr. Hiranaga: Let me interject. Let's wait till these a motion on the floor regarding the recommendation before we start talking about the recommendation.

Mr. Shibuya: No, I just wanted to see if there's some internal consistency in terms, well, what is the operating period?

Mr. Hiranaga: Can you bring that up when we have the motion on the floor for the recommendation because --?

Mr. Shibuya: Sure.

Mr. Hiranaga: Yeah. We're talking about the staff report and the applicant's report at this time.

Mr. Shibuya: I was talking about operations.

Mr. Hiranaga: Any other questions Commissioners? Commissioner Hedani?

Mr. Hedani: I think this is for Ken. Ken, are there smell associated with existing asphalt operations?

Mr. Gift: Yes. There's some of them.

Mr. Hedani: In your opinion, if asphalt batching plant were to be incorporated into the site, would that adversely affect the surrounding residential areas in terms of smell?

Mr. Gift: You're saying as opposed to the wastewater treatment facility?

Mr. Hedani: Well, think about a combination of both.

Mr. Gift: It would depend somewhat on size and how they had it set up which I imagine something

that would be considered during the Special Use Permitting process. You know, there's an aroma from asphalt. It's not a terrible aroma, but it's . . . (inaudible) . . . It compares favorably with the aroma next door.

Mr. Hedani: Okay, I'm not getting a straight answer. If that particular use item were to be deleted or conditionally deleted, is that something that would be acceptable to you?

Mr. Gift: That wouldn't be for me to say. That's more for the applicant. It would seem like it's something that's not inconsistent with what has been used on that site. And that question about the odor emanating from it is a valid point and would need to be considered.

Mr. Hiranaga: Any other questions Commission? Commissioner Shibuya?

Mr. Shibuya: Relating – Mr. Gift can probably relate to this. Do you coordinate the turning on your heavy electrical motors? The reason why I'm asking that because the electrical motors that, I guess, they're powering your crusher right?

Mr. Gift: The electrical motors we use are powered by generators.

Mr. Shibuya: Oh, generators. Portable generators.

Mr. Gift: Yeah. The biggest motors we have are the air-conditioners on our office.

Mr. Shibuya: Okay. So there's no need to coordinate your turning on the power with MECo?

Mr. Gift: Right. They're self contained because that equipment goes to the project sites as well, and so it's a self contained operation.

Mr. Shibuya: Because the amperage on that is huge. Thank you.

Mr. Hiranaga: Any other questions Commissioners? I have a question. The current SUP permitted uses was that ever provided by staff or the applicant? And also the current permitted uses under the Conditional Permit?

Mr. Hirano: You mean the current permitted uses under the M2?

Mr. Hiranaga: No. Under, you have a –

Mr. Hirano: A Conditional Permit and State Land Use Special Use Permit.

Mr. Hiranaga: Yeah. In place currently. What are the permitted uses?

Mr. Hirano: The permitted uses are for the State Land Use Special Use Permit. It was for the baseyard, storage of equipment, and trucks. And then for the Conditional Permit – thank you – it was in the Environmental Assessment. The material, storage, construction baseyard, material storage site, and that's for the State Land Use Special Use Permit. Rock crushing, construction baseyard and materials storage. And then for the Conditional Permit, it was the rock crushing.

Mr. Hiranaga: Thank you. So the slide you have up there now are the, it's a condensed list of permitted uses under M2 that you wish to be allowed?

Mr. Hirano: That is correct. Yes.

Mr. Hiranaga: And then on the following slide, limited factory uses. That's proposed, that's another condensed list of proposed uses?

Mr. Hirano: That's correct. Under the M2 permitted uses, there is listed there factories, and so as we mentioned Planning Department had raised, you know, concern about the breath of what could be interpreted as factories. And when we met with the Kihei Community Association they also were concerned with the breath of what could be permitted under factories. So we went to the factory list. There's a Federal list of factories, the types, and we, with the applicant, had reduced those to what were felt as kind of cleaner industries, non-obstructive or obtrusive industries, obnoxious industries, and also industries I think that are more high tech value added and higher paying wages. You know, the type of industries that you'd want in your community and the type of jobs – excuse me – the type of jobs and employment that would create. So we limited the list of factories to the list that's before you.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: Can you explain a little bit more what is meant by transportation equipment manufacturing? I mean, it sounds like you're building busses here.

Mr. Hirano: It could. It's a 14.5 acre site, and so I think the type of transportation equipment manufacturing would be limited. But in that, it could be an assembly of certain parts for transportation equipment, transmissions, putting together, you know, frames for trucks. But I think it's more limited by the size of the particular property which is 14.5 acres so you can't do a lot of, of heavy transportation equipment manufacturing at the site.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I think the terminology here is manufacturing or fabrication. I think we're more in terms of fabricating, modifying it to fit the actual purposes of this facility or use of. A good example would be HC&S. They buy the trucks, they buy things, then they fabricate and innovate various improvements or changes to fit the agriculture production such as turner haulers so they don't buy turner haulers. They buy the front end and then they fabricate everything else.

Mr. Hirano: Thank you Commissioner Shibuya.

Mr. Hiranaga: Any other questions Commissioners? I have a comment. This is for staff. On page 14 of your staff report, you have a list of 20 agencies that reviewed this application. And I recall in other staff reports, and maybe this is not a Department standards, but maybe – usually the Departments that don't have any comments, says no comment. And if one has a comment, they'll have an abbreviated statement of what that comment is so I can go and look at attachment nine and read the entire body of the letter versus going through 20 agency comments to find out that 19 of them says no comment, and one has a comment and hopefully I found that comment as I spent

my time reading through all these letters. I'm wondering why that wasn't provided. Or are they all no comments?

Mr. Wollenhaupt: No there were comments that were from the Draft EA, they were from the Final EA, and then from the application for the four permits. I think just because some of the comments get excessively long with responses, so that can certainly be something that we can bring up at our monthly meetings in the future that we always put at least a brief no comment or a little synopsis of what the comments were. So, point well taken. All of the letters were provided.

Mr. Hiranaga: Unless it's the intent of the Department that they want the Commissioners to read every single letter to see if there is a comment or no comment. I mean, it may be a liability issue. You're saying, well, this comment is not important, but in fact it may be important, so you don't want to label it.

Mr. Wollenhaupt: I wouldn't want to say which comments are important or which aren't, so we provide you with full discretion and we give them all.

Mr. Hiranaga: Deputy Director, do you care to comment?

Ms. McLean: As Kurt said, it's, the point is well taken. I think having some consistency in our recommendations to either make a note of no comment or comments provided, something to that effect so –. Or something sort of brief summary of what their comments are so if you did want to review the entire letter then you'd know the ones that were, that had more content.

Mr. Hiranaga: Okay. Thank you. Any other questions Commissioners for the staff or applicant? Seeing none, we're – oh, Commissioner Hedani.

Mr. Hedani: One last comment. This is for Ken. Ken, Mr. Enriques made a statement that the facility is being expanded. The 14.5 acre site, how much of that is currently being utilized?

Mr. Gift: All of it.

Mr. Hedani: All of it. So it's not an expansion, it's a change in zoning of the existing site?

Mr. Gift: Correct.

Mr. Hedani: Okay.

Mr. Hiranaga: Any other questions for the staff or applicant? Seeing none, we're ready for the staff recommendation.

Mr. Wollenhaupt: As indicated when we started this we have four different applications to consider today. And the first one would be the Community Plan Amendment. The Community Plan Amendment would change from a designation of agricultural on the total 14 ½ acre parcel to heavy industrial. The Planning Department recommends approval of the Community Plan Amendment and would recommend that the Planning Department adopts the report and recommendation prepared for today's meeting, and authorize the Planning Director to transmit said recommendation

on this Community Plan Amendment to the Maui County Council for their review on behalf of the Commission. Did you want me to go through all four of them?

Mr. Hiranaga: What's the preference of the Commission? Commissioner Hedani?

Mr. Hedani: Whatever your preference is. We could do it one at a time or all together.

Mr. Hiranaga: Do you have preference Commissioner Shibuya?

Mr. Shibuya: I prefer doing just doing it one at a time.

Mr. Hiranaga: Okay. Commissioner Hedani?

Mr. Hedani: I move that we approve as recommended by staff.

Mr. Hiranaga: For one at a time, right?

Mr. Shibuya: I second.

Mr. Hiranaga: So we're talking about the Community Plan Amendment.

Mr. Wollenhaupt: Yes.

Mr. Hedani: That's correct.

Mr. Hiranaga: Okay, motion to approve the Community Plan Amendment as recommended by staff. Is there any discussion? Moved by Commissioner Hedani, seconded by Commissioner Shibuya. So just for clarity, all of these will be recommendations to Council?

Mr. Wollenhaupt: The first three, the Community Plan Amendment, District Boundary Amendment, Change in Zoning, are all recommendations from this body to the Council. The County Special Use Permit is a rather odd creature that requires approval by this body today, conditioned upon the approval by the County Council. So that's just the way it is. So, yes, this one, the first three are recommendations to approve by this body.

Mr. Hiranaga: Any discussion? I guess I have a comment. I guess in a perfect world if the General Plan Advisory Committee had kept to their time table, and as the Maui Planning Commission did keep to their time table of six months, and if the Council had kept to their designated time table, perhaps we would be much closer to the Kihei Community Plan thereby not needing to go through this process. I think there are valid concerns from the Kihei Community Association. Right now they have the required permits to continue their current operations, but if all of these designations are granted, they're gonna have the ability to expand the uses tremendously and I'm not sure if this is the appropriate route that something like this should be process through. I mean, we have an Island Plan. We have proposed urban growth boundaries. Some day they're gonna form a Kihei Community Advisory Committee and they will come up with recommendations as to where urban should be, where manufacturing should be, where business should be, where . . .(inaudible) . . . should be in. It's unfortunate that this applicant is kind of caught in this situation. It's no fault to

theirs so they are moving forward. But I don't necessarily feel comfortable with allowing them to move forward because County government should've been moving forward a lot quicker so we wouldn't be in this situation. So that's my comment on this particular motion on the floor. Is there any other discussion? Commissioner Wakida?

Ms. Wakida: I have a similar concern about this. We're voting on amending the Community Plan and we've heard from the community saying they don't want it amended. And the existing, the status, they're fine with the status quo and the way things are going, and it too concerns me that there are community plan, general community plan amendments down the road that will address this and we'll listen to the community as we, as I feel I should be doing.

Mr. Hiranaga: Commissioner Hedani?

Mr. Hedani: I guess in a perfect world everything would follow the schedule that it's suppose to follow. But if we were to wait on the Maui Island Plan to be approved, and all nine community plans to be approved, you know, we'll all be dead by the time it makes the application. In this particular case, they're gone for 30 years with an operation that hasn't drawn complaints. They're not expanding the facility. The entire site is currently used by the existing use. They can't do an asphalt batching plant unless they come back to us for approval. And it's one step in many. When the Island Plan gets approved, it's gonna look exactly like the plan that was proposed on the map that we've seen, or more than likely it will look like that unless there's a significant change from it. So I would support the Community Plan Amendment at this time.

Mr. Hiranaga: Deputy Director?

Ms. McLean: Thank you Chair. I just have two comments. This process is actually what we like to see applicants do, come in for a Conditional Permit or a Special Permit because you're not sure what the impacts of your use are going to be. So you have the temporary measure as a trial basis so that you can determine whether your use fits within the surrounding area. And then after the period of time, if it seems that the use is compatible and you no longer want it to be temporary, then you come in for the permit entitlements. And that's what this applicant has done. This is what we like to see. You have these Conditional and Special Use Permits that you do time extensions and after a while you go, this should permanently established thing. So just in general this is the process that we'd like to have followed.

With the Community Plan Amendment and the Maui Island Plan, I would guess that by the time this transmitted to the Council, they would have adopted the Maui Island Plan, and the Urban Growth Maps before they consider these applications and –

Mr. Hiranaga: Careful.

Ms. McLean: So, if for example, they don't include this in the growth boundaries, then the Council would have grapple with that in considering these changes. Yeah, maybe I am stretching it. I'm optimistic. But the Council's Land Use Committee does have quite a few items on their agenda that they would get to before they get to this so I would think in terms of their scheduling they would want to see Maui Island Plan adopted before they consider this.



Mr. Hiranaga: Any other discussion? If not, if the Deputy Director can restate the motion.

Ms. McLean: The motion is to recommend approval of the Community Plan Amendment.

Mr. Hiranaga: To the County Council.

Ms. McLean: To the Council.

Mr. Hiranaga: All in favor so indicate by raising your hand.

Ms. McLean: Five ayes.

Mr. Hiranaga: Motion carries. Next recommendation.

**It was moved by Mr. Hedani, seconded by Mr. Shibuya, then**

**VOTED: To Recommend Approval of the Community Plan Amendment to the County Council, as Recommended by the Department.  
(Assenting - W. Hedani, W. Shibuya, D. Domingo, I. Lay, P. Wakida)  
(Excused - J. Freitas, M. Tsai, K. Ball)**

**b. State Land Use District Boundary Amendment**

Mr. Wollenhaupt: The next recommendation concerns the District Boundary Amendment to change the State Land Use District Boundary Amendment from Agricultural on the total 14 ½ acre parcel to Urban. The Planning Department recommends the approval of the District Boundary Amendment subject to the following conditions. There should be a prohibition on any action that would interfere with or restrain farming operations adjacent to the 14 ½ acre parcel provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the ag district. Condition #2, that there shall be notification to all perspective developers or purchases of land or interest in such land in the petitionary and subsequent notification to leasees or tenants of the land that farming operations and practices on adjacent or contiguous lands in the agricultural districts are protected under Chapter 165 of the Hawaii Revised Statutes to Hawaii Right to Farm Act, and that the notice shall be included in any disclosures required for the sale or transfer of real property or any interest in such real property. In consideration of the foregoing, the Planning Department recommends that the Commission adopts the report and recommendation and authorize the Director to transmit said recommendations on the District Boundary Amendment to the Maui County Council on behalf of the Commission.

Mr. Hiranaga: The floor is open for a motion. Commissioner Shibuya?

Mr. Shibuya: I move to accept.

Mr. Hedani: Second.

Mr. Hiranaga: Moved by Commissioner Shibuya, seconded by Commissioner Hedani to approve as recommended by staff. Any discussion? This particular motion I don't have a problem because my understanding is if and when the Kihei Community Plan is updated and adopted, the applicant would still need to go for a State Land Use Boundary Amendment. So this, they're getting ahead of the ball. So they'll be ready when the Kihei Community Plan is updated. Any further discussion? Seeing none, I'll call for the vote or I'll have the Deputy Director restate the motion.

Ms. McLean: The motion is to recommend to the County Council approval of the District Boundary Amendment subject to two conditions relating to agricultural uses on adjacent and contiguous lands.

Mr. Hiranaga: All in favor so indicate by raising your hand.

Ms. McLean: Five ayes.

Mr. Hiranaga: Motion carries. Next recommendation.

**It was moved by Mr. Shibuya, seconded by Mr. Hedani, then**

**VOTED: To Recommend Approval of the State Land Use District Boundary Amendment to the County Council, as Recommended by the Department.**  
**(Assenting - W. Shibuya, W. Hedani, D. Domingo, I. Lay, P. Wakida)**  
**(Excused - J. Freitas, M. Tsai, K. Ball)**

**c. Change in Zoning**

Mr. Wollenhaupt: The next discretionary permit under consideration is the Change in Zoning. The Change in Zoning will change the zoning district from Agricultural on a total 14 ½ acre parcel to M2 Heavy Industrial. The Planning Department recommends approval of the Change in Zoning subject to the following conditions. Number one, that the permitted uses shall be limited to those outlined in the following table. The table is as indicated on the screened, or the power point. The exception from the discrepancy between the staff report and the screen version is the deletion of the permitted use under M2 permitted uses of soap manufacture. The applicant has at their behest deleted soap manufacture from the permitted uses. The item regarding factories is still, as indicated on the power point screen. In the consideration of the foregoing, the Department recommends that the Commission adopts the Department's report and recommendation and authorize the Planning Director to transmit said recommendations on the Change in Zoning to the Maui County Council on behalf of the Commission.

Mr. Hiranaga: I'll open the floor to a motion.

Mr. Shibuya: Move to approve the recommendation

Mr. Hiranaga: Commissioner Shibuya moved to approve.

Mr. Hedani: Second.

Mr. Hiranaga: Seconded by Commissioner Hedani. Discussion. Commissioner Wakida?

Ms. Wakida: Can we include under factories that limited, that list that the Kihei Community Association came up with?

Mr. Wollenhaupt: I believe we can but I think you could defer to Corporation Counsel on the best way of incorporating that list in to a condition.

Ms. Wakida: Okay.

Mr. James Giroux: Yeah, I talked to Kurt earlier about – I guess there should be a discussion of whether or not you want to limit the factories first and then we'll try to figure out how to get that into a condition. It's just that sometimes these Change in Zoning conditions can get really, as far as from a drafting standpoint, start to get cumbersome. Because if we don't know exactly what the Commission wants, it's hard to draft it. So, if you wanna go forward, if that's something you wanna pick up, pick up as a motion and then at the end of that motion we should discuss again how we want to incorporate it. Because somehow we're gonna have to either use this table or have a subset of permitted uses. So, it's just, we should dispose of the policy discussion first, and dispose of that in a motion. And then once, once you go over that discussion we can, Kurt and I can try to figure out how to get that into, draft that so it's accurately transmitted to Council. That's the main issue.

Mr. Hiranaga: So would we need to do a friendly amendment to the motion?

Mr. Giroux: Well, it would probably be just an amendment to the motion. I don't know if you want to characterize as a friendly or not.

Mr. Hiranaga: Would the maker of the motion consider it friendly?

Mr. Shibuya: Yes, I consider it friendly.

Mr. Hiranaga: And the seconder?

Mr. Hedani: Yes.

Mr. Hiranaga: So friendly amendment. If you could restate your friendly amendment.

Ms. Wakida: Well, first of all I wanna ask if the applicant, was the applicant okay with this Kurt?

Mr. Hirano: Yes Commissioner Wakida. It was in fact the applicant who put the limited uses of factory forward. It was after discussion with community association. But the applicant had put that forward, so they're in favor it. Yes.

Ms. Wakida: Okay. Alright. Thank you.

Mr. Shibuya: I'm more concerned in terms of using the word factories or maybe another word like fabricating equipments.

Mr. Wollenhaupt: The issue is that we take these, this language directly from the Code, so we can't –

Mr. Shibuya: Okay.

Mr. Wollenhaupt: We have to take what's in there and then we can start chopping it out.

Mr. Shibuya: Then we can't word smith it yet.

Mr. Hiranaga: So would the staff recommendation be limited factory uses versus just factory uses? And you could say like see appendix.

Mr. Giroux: We would probably add another condition that would state factory uses shall be limited to the following and then we would list whatever is agreed to.

Mr. Hiranaga: Okay. Thank you. Any further discussion? Commissioner Hedani?

Mr. Hedani: This is for Kurt I guess. The language in the existing zoning, special use for asphalt manufacture makes no sense. And I think somebody at some point, and if this is a recommendation for the Council or whoever, you know, we should correct it to read exactly as its intent.

Mr. Wollenhaupt: Just one thing is I know there are changes in the M1, M2, and M3 and the proposed M3, but I believe this body had looked at, that are currently at the Council level to be debated. So I could relay to Joe Alueta who takes care of that, that there needs to be a redefinition of exactly what asphalt refueling –

Mr. Hedani: Is there a refueling asphalt or they're refueling manufacturing or they're manufacturing concrete or refueling the concrete.

Mr. Wollenhaupt: Right.

Ms. Wakida: Do you need me to repeat anything about, for the friendly amendment?

Mr. Hiranaga: No.

Mr. Giroux: Chair, I had to deal with this before so that's why it's kind of touchy for me, but on the record, in your transcript that's not reflected. So if somebody would read it in, read all of those uses into the record so it's obvious what we're talking about that would help.

Mr. Hiranaga: Okay I guess Commissioner Wakida, your pleasure.

Ms. Wakida: Okay, limited factory uses shall be limited to apparel manufacturing, wood product manufacturing, printing and related support activities, non metallic mineral product manufacturing,

primary metal manufacturing, fabricated metal product manufacturing, machinery manufacturing, computer and electronic product manufacturing, electronic equipment appliance and component manufacturing, and transportation equipment manufacturing.

Mr. Giroux: That's great.

Mr. Hiranaga: Any further discussion? Again I'm gonna state my reservation about approving this zoning change. As we looked back when the Island Plan update ordinance was adopted, what five, seven years ago, if we've kept to the time frame that was stated possibly we would have been through maybe half of the community plan updates by now and Kihei would be just waiting to be reviewed and we wouldn't have to go through to this. And again respecting the comments from Kihei Community Association about what's happening now is fine with them, but they're objecting to the expanded uses. Yeah, it concerns me. If there's no further discussion I'll call for the vote. All in favor so indicate – I'm sorry, we'll have the Deputy Director restate the motion for clarity.

Ms. McLean: Thank you Chair. The motion is to recommend to the County Council to approve the Change in Zoning subject to the conditions listed on page seven of the Department's recommendation with two changes. One is that the factory use shall be limited to the 10 items as stated by Commissioner Wakida, and the deletion of soap manufacture.

Mr. Hiranaga: All in favor so indicate by raising your hand.

Ms. McLean: Five ayes.

Mr. Hiranaga: Motion carries. Next recommendation.

**It was moved by Mr. Shibuya, seconded by Mr. Hedani, then**

**VOTED: To Recommend Approval of the Change in Zoning to the County Council, as Recommended by the Department.  
(Assenting - W. Shibuya, W. Hedani, D. Domingo, I. Lay, P. Wakida)  
(Excused - J. Freitas, M. Tsai, K. Ball)**

**d. County Special Use Permit**

Mr. Wollenhaupt: The fourth item we're looking at today is the County Special Use Permit. The Maui County Special Use Permit shall allow rock, sand, or gravel or earth crushing or distribution and explosive storage. The Planning Department recommends approval of the County Special Use Permit subject to the following conditions. I'll try to summarize the conditions that I think are pertinent. Condition one, that the County Special Use Permit shall be valid until May 31<sup>st</sup>, 2022 subject to extension by the Maui Planning Director upon a timely request for extension. The Director may forward the time extension request to the Commission for review and approval and may require public hearing on the extension by the Commission. With regards to something that Commissioner Wakida had, the County Special Use Permit which does cover the rock crushing and explosive storage shall not be transferred without prior written approval of the Maui Planning

Commission. The next ones are more or less, boiler plate regarding insurance and compliance reports. Number seven, that exterior illumination shall consist of fully down shielded lighting throughout the project. Number eight, that no quarrying operation shall be permitted on the subject site without express written approval of the Maui Planning Commission. Number nine, that upon termination of the rock crushing facility all equipment and materials to the rock crushing operation shall be removed and the site shall be restored in the manner to prevent erosion from wind and rain, and in the manner that would not adversely affect natural drainage pattern. Number 10, that appropriate measures that's governed by the Department of Health shall be taken during the operation of the rock crushing facility to mitigate impacts relative to dust and soil erosion by wind and water and increase ambient noise levels. Number 11 is the proposed recommendation. This is in regards to Commissioner Shibuya's question about operating hours. That the hours of operation shall be limited to the period being at 7:00 a.m. and ending at 5:00 p.m. The current County Special Use Permit allows the operation to commence at 6:30 a.m. and end at 5:00 p.m., so we were able to change that to 7:00 a.m. to 5:00 p.m. Number 12, this would get to the screening issue for sight lines. The applicant shall maintain the landscape screening of the sight lines to the site from the Piilani Highway in accordance with the landscape plan approved by the Planning Department. Number 13, that the applicant shall monitor haulers to and from the rock crushing facility on the highway for potential leakage of materials from their loads and maintain the driveway to the plant removing loose aggregate and other debris associated with the operations in accordance with the monitoring plan dated July 13<sup>th</sup> 1999 or as revised, and submitted and approved by the State DOT, Maui Highways Division. Number 14, that the applicant shall continue to conduct the traffic signal warrant study at the Piilani Highway and Welakahao Road as directed by the State DOT, Maui District Engineer. Number 15, the final one, that when warranted and at the discretion of the State DOT, Maui District Engineer, the applicant shall install traffic signals at the intersection of Piilani Highway and Welakahao Road at no cost to the State in lieu of signalization or until such signalization is completed. The applicant shall direct left turning trucks that want to enter Piilani Highway to the Piilani Highway and Kanani Road intersection. In the later case, the applicant will develop and execute a maintenance plan for the intersection to the satisfaction of the State DOT, Maui District Engineer.

In consideration of this foregoing, the Planning Department recommends Maui Planning Commission adopt the report and recommendation and approve the County Special Use Permit contingent upon the County Council passage of the associated Community Plan Amendment, District Boundary Amendment and Change in Zoning, and the County Council's approval of the County Special Use Permit, and to authorize the Planning Director to transmit said Commission approval of the County Special Use Permit to the Maui County Council on behalf of the Commission.

Mr. Hiranaga: The floor is open to a motion. Commissioner Hedani?

Mr. Hedani: Move to approve as recommended.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Second.

Mr. Hiranaga: Move to approve by Commissioner Hedani, seconded by Commissioner Shibuya.

Any discussion? Commissioner Wakida?

Ms. Wakida: Yes, Kurt, number 11, what are the days of operations going to be?

Mr. Wollenhaupt: The days of the operation that the applicant wish to have was seven days. They may have some comments on that. We did have a discussion regarding that. The rock crushing, I guess, occurs – from my understanding, it occurs four months every four years. Now they might be able to tell me a little more about that. The Department did have some concerns about Sundays.

Mr. Lay: Holidays.

Mr. Wollenhaupt: The holidays. So we have had a discussion that we can continue today if you'd like.

Mr. Hiranaga: Perhaps the applicant would like to explain why they feel they need to operate seven days a week.

Mr. Gift: Like is probably too strong of a word. In on occasion, what we are looking for is flexibility. It costs us a lot more with our people to operate on a Sunday and so that's not something that would typically choose. We just didn't want to, you know, too much constraint on it in case because in certain circumstances we have a very fast requirement to be able to process materials so we wanted to be able to have as much of the time available during that period as we could. I'm not aware of any instances where we actually man on Sunday. Possibly there were one or two. We would often run on Saturday. That's a frequent one. And the option to run on Sunday, if necessary, in setting that is considerably removed from residential wouldn't seem unreasonable.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Mr. Gift, on this noise permit that the State of Hawaii, Department of Health has issued, and I believe you do have a more current one which expired in 2009. It does, it stipulate, it does specify that it is 7:00 a.m. to 6:00 p.m., Monday through Friday. And in this case you would say, 7:00 a.m. to 5:00 p.m., and that it says 9:00 a.m. to 6:00 p.m. on Saturdays, and nothing on Sundays and Holidays. What's your comment on that?

Mr. Gift: You are correct.

Mr. Shibuya: I mean, on one hand we are granting you use, but yet the State of Hawaii is saying, no way.

Mr. Gift: Well that's what it's saying on that. We would have to request it from them and have approval from them as well if we were to run on these times. We're talking about a 10 year permit. So we, and we actually get a fresh one of those every time we do our crushing operations. If there was some reason that we needed to run a longer duration, we'd have to get approval from them as well.

Mr. Hiranaga: Commissioner Wakida?

Ms. Wakida: It's for Kurt. I wonder if this language is strong enough here on number 10 about dust. It says dust and soil erosion. In looking at the pictures that the applicant brought, there's a lot of, this raw dirt, and trucks are going back and forth and so on. So I'm wondering if there should be stronger language about dust control and watering down. I mean, I'm certainly aware there's dust coming from a lot of other places in Kihei, but in this particular site I think there should be something a little stronger in here or more specific about dust control for this. I don't know quite how to word that though.

Mr. Wollenhaupt: There's some kind of time table for watering. I'm not sure the exact dust mitigation, watering measures, put that into language right now. It might take a little crafting here.

Ms. Wakida: Dust control, yes, with water wagons. And so I don't know what they have currently, but I think that should be required in an area that's open dirt like that.

Mr. Hiranaga: So Kurt if there is a complaint due to dust, is that typically directed to the Department of Health or is that to the Planning Department?

Mr. Wollenhaupt: They probably would just call the County, maybe even the Department of Environmental Management. I doubt they would call the Planning Department if it's routinely.

Mr. David Goode: Mr. Chair? Over here.

Mr. Hiranaga: Director.

Mr. Goode: I think maybe I can shed some light on this. My understanding is the rock crushing facility has an active grading permit with us. So as such we have the ability to monitor dust, monitor the watering schedule, et cetera. So maybe if you desire to re-write the condition, it could be that the applicant . . . (inaudible) . . . rock crushing facility, you know, maintains, as necessary a grading permit with the County of Maui. And then we have the full enforcement capability.

Mr. Hiranaga: So perhaps you just want to add the Public Works Department with the Department of Health versus deleting the department.

Ms. Wakida: Yeah, I –

Mr. Hiranaga: Or make an amendment to the motion, condition number 10.

Ms. Wakida: Yes, but I'm not –. You want to help me out on amending it?

Ms. McLean: On condition number 10, David, if we just added the Department of Public Works?

Mr. Goode: Yeah.

Mr. Shibuya: Yeah, replace it, right?

Mr. Hiranaga: No, insert.



Ms. McLean: Add to it.

Mr. Hiranaga: Add two agencies.

Mr. Shibuya: Okay.

Ms. Wakida: Just one comment about dust. I –

Mr. Hiranaga: Did you make the amendment? Motion to amend, as stated by the Deputy Director?

Mr. Wakida: I so –

Mr. Hiranaga: We need a second.

Ms. Wakida: I so move.

Mr. Hiranaga: Okay, do we have a second on the amendment. Seconded by Commissioner Lay. Commissioner Wakida?

Ms. Wakida: About complaints – excuse me – about complaints, when the wind is blowing, they're getting dust from everywhere so I can see why specifically Kihei Rock Crushing wouldn't be getting a specific complaint because I mean everybody is blowing the dust from that area. But I think it's good that we can focus in on what can focus in on. I mean they're not the only ones creating dust, but we can do what we can do.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I'd like to on Item number 11 just a modification on that.

Mr. Hiranaga: I'm sorry, we need to take action on the amendment.

Mr. Shibuya: Okay, I'm sorry.

Mr. Hiranaga: Yeah. All in favor of the amendment so indicate by raising your hand.

Ms. McLean: Five ayes.

Mr. Hiranaga: Motion carries. Commissioner Shibuya?

Mr. Shibuya: On number 11, amendment, I'd just like to add a word, "and as permitted by the State of Hawaii, Department of Health." He's asking for operating hours. I should read it. That the hours of operations of the rock crushing facility shall be limited to the period beginning at 7:00 a.m. and ending at 5:00 p.m. and as permitted by the State of Hawaii, Department of Health.

Mr. Hiranaga: Is there a second?

Ms. Wakida: I second.

Mr. Hiranaga: Seconded by Commissioner Wakida. I have a question. How much noise does the rock crushing facility generate? Because it only happens once every four years. I may have missed the last operation period. The testifier who lives at Kanani, will he hear the operation when it's active?

Mr. Gift: There is –. I would doubt that he would. I have been in other locations like the south Maui Park is in similar distance away, although it's not in the direction of the wind, but you cannot hear it from there, at that location. There's an equipment sound but it is basically consistent equipment sound that would not necessarily be distinguished for similar, you know, quarter mile away from the activity.

Mr. Hiranaga: Since you're asking for a seven day operational approval, how about the six major holidays? Do you plan to operate on New Years Day, Memorial Day, Fourth of July, Thanksgiving, Christmas?

Mr. Gift: The condition added to include the Department of Health would address that because they have a similar way. We would have to convince them that there was some compelling reason to run on those holidays in order to be able to function on those days.

Mr. Hiranaga: Commissioner Shibuya, you had your hand up?

Mr. Shibuya: No, no. I was just gonna relate that the noise level. I've been a customer of rock crushing. I use rocks to build my sidewalk as well as my retaining wall, and I've been, on not particularly yours but another competitors, and it's not that loud. It's noisy, yes, but there's more noise from the cane loader, large trucks, and the loading of the material, aggregate into the truck bin. It's not that loud noise.

Mr. Hiranaga: But when a rock crushing facility is operating, you're also having deliveries trucks coming to pick up material and exporting it out of the property.

Mr. Gift: Not typically. They would be a separate function. We would stock pile and there would be equipment that's moving materials around onsite. But very seldom we'd actually be hauling in and hauling out at the time that we're crushing.

Mr. Hiranaga: Any more discussion? Commissioner Hedani?

Mr. Hedani: You know I think the amendment to add the State provisions on hours kind of confuses this particular item. That makes it unclear. Right now it's very clear. It's 7:00 a.m., I mean, 7:00 a.m. to 5:00 p.m. Something that they've agreed to which I think starts later than normal, and ends earlier than normal, which is a concession from my perspective. In exchange for saying they'd like to operate seven days a week when it's absolutely necessary. So I would prefer not to muddy up the water by adding something that's non specific in terms of hours, deferring our approval over to the State, which is what the amendment would read.

Mr. Hiranaga: Any more discussion on the amendment? This is to revise condition 11. Commissioner Hedani?

Mr. Hedani: One other point I wanted to make was that in this particular case, they've gone for 30 years without a complaint, without a formal complaint that was registered with the County which is extraordinary for any operation.

Mr. Hiranaga: Any more discussion on the amendment? Seeing none, I'll have the Deputy Director restate the amendment.

Ms. McLean: The amendment is to condition 11 so that it would read – so that condition 11 would read –. Sorry, one more time. That the hours of operations of the rock crushing facility shall be limited to the period beginning at 7:00 a.m. and ending at 5:00 p.m. and as permitted by the State of Hawaii, Department of Health.

Mr. Hiranaga: All in favor of the motion so indicate by raising your hand.

Ms. McLean: Two ayes.

Mr. Hiranaga: Opposed?

Ms. McLean: Three nos.

Mr. Hiranaga: Motion fails. Any other discussion on the motion on floor? Seeing none, I'll have the Deputy Director restate the motion.

Ms. McLean: Thank you Chair. The motion would be to approve the County Special Use Permit subject to the 15 conditions listed in the staff recommendation with one amendment to condition 10 which would add the Department of Public Works as one of the governing agencies for mitigating dust and soil erosion.

Mr. Hiranaga: All in favor of the motion so indicate by raising your hand.

Ms. McLean: Five ayes.

Mr. Hiranaga: Motion carried. Thank you very much. We'll take a 15 minute recess and reconvene at 11:15 a.m.

**It was moved by Mr. Hedani, seconded by Mr. Shibuya, then**

**VOTED: To Approve the County Special Use Permit, as Recommended by the Department, as Amended.  
(Assenting - W. Hedani, W. Shibuya, D. Domingo, I. Lay, P. Wakida)  
(Excused - J. Freitas, M. Tsai, K. Ball)**

*(The Maui Planning Commission recessed at approximately 11:00 a.m. and reconvened at approximately 11:20 a.m.)*

- C. ORIENTATION WORKSHOP NO. 2** (Orientation Workshop No. 1 was conducted on April 13, 2012.)
- 1. Flood Hazard District Regs. (C. Cortez, ZAED)**
  - 2. Office of Planning Presentation on the Hawaii Coastal Zone Management Program (Leo Asuncion and Shichao Li) (To be presented at 1:00 p.m. or soon thereafter)**
  - 3. Special Management Area Rules (J. Buika)**
  - 4. Shoreline Area Rules (J. Buika)**
  - 5. Sea Level Rise (Tara Miller Owens, Sea Grant Agent)**
  - 6. Ex Parte Communications (J. Giroux)**
  - 7. Discussion of Boards and Commissions Booklet Distributed by the Office of the Corporation Counsel**
  - 8. Ethics**
  - 9. Recent U.S. Supreme Court decisions on takings issues.**
  - 10. Public Access Shoreline Hawaii (PASH) v. Hawaii County Planning Commission**
  - 11. Hawaii Supreme Court Decision regarding the Topliss case (SMA)**
  - 12. Hawaii Supreme Court Decision in the case of Paulette K. Kaleikini v. Laura H. Thielen, in her official capacity as Chairperson of the Board of Land and Natural Resources, Board of Land and Natural Resources, and the Department of Land and Natural Resources.**
  - 13. Other Relevant Hawaii Supreme Court Cases**
  - 14. Intervention and Settlement Agreements**

Mr. Hiranaga: . . . two new Commissioners are not here, and they are the ones that would benefit the most from these presentations. We're going to have Carolyn Cortez do flood hazard district regs, which is about 20 minutes to half an hour. Then we're going to convene for lunch, recess for lunch, reconvene at one o'clock. We have Office of Planning, Office of Planning presentation on the Hawaii Coastal Zone Management Program. I guess this person is coming in from Oahu. And then Tara, Sea Level Rise, we'll have her make her presentation because it's related. And then we'll just adjourn and defer the rest of the presentation until our two new Commissioners are present. Is there any objection to that? Any objection? Because I've had five orientations, Wayne has five, Donna has four. I think Warren had three. And so, I think these are the two guys that should be here. Okay, so we'll start with Carolyn.

Ms. Carolyn Cortez: Okay, good morning Commissioners. My name is Carolyn Cortez and I'm a planner with the Zoning Administration and Enforcement Division (ZAED), and I will be giving you a brief orientation on Chapter 19.62, Flood Hazard Areas. Okay we will be covering – my session will cover this morning the flood hazard ordinance, flood maps and standards, the community rating system, and the Planning Commission's role.

Okay, the County of Maui first enacted Chapter 19.62, Flood Hazard Areas, in 1981 when the County of Maui joined the National Flood Insurance Program. We had our first revision to that ordinance on September 25<sup>th</sup>, 2009 which coincided with the adoption of our FEMA Digital Flood

Insurance Rate Maps (DFIRM.) The purpose of the National Flood Insurance Program is the protection of life and property, and the reduction in public cost for flood control rescue and relief efforts. When the County of Maui joined the National Flood Insurance Program in 1981, these paper based maps which showed flood way and flood plain boundaries were in effect. Participation in the National Flood Insurance Program guarantees Federal assistance in times of disaster in the form of loans and grants.

As part of FEMA's nation wide map modernization project, paper maps are being digitized. Maui County received their new Digital Flood Insurance Rate Maps, or DFIRMs, on September 25<sup>th</sup>, 2009. As you can see the paper maps are in grey scale and they have no parcel layer. The new digital maps have the flood zones delineated in color, they have integrated the flood ways so we don't have to look at two different sets of maps, and they also have an imagery layer which is based on our real property tax TMK layer.

Okay and then what the State of Hawaii has done, they have further taken the digital flood maps, and they've created this tool called the Flood Hazard Assessment Tool (FHAT). And what the FHAT does is it takes it a step further. We have the parcel layer and the imagery, but we also have topography up to 10 meters above mean sea level. We also have monuments for surveyors, and also Letters of Map Revision that are indicated on the maps and that it just makes it easier to look up when you're doing research on properties. Paper maps will no longer be issued by FEMA. Everything is digitized and available on the internet. Okay, so these are the two, two URL's for both the FEMA Digital Flood Insurance Rate Maps and the State of Hawaii Flood Hazard Assessment Tool.

Okay, this is a picture from the Flood Hazard Assessment Tool. This is a screen shot. X and X-shaded which is the green are areas of minimal flooding. There's no flood insurance requirement for the green. The one percent annual chance. So what flood maps effect is the one percent annual chance flood which is also called the 100 year flood because the inverse of the one percent – one divided by one. Excuse me, one divided by one percent or 0.01 equals 100. So that calculation gives us the flood's recurrent interval which in terms of probability is 100 years. The term 100 year flood is often misconstrued. Commonly people interpret the 100 year flood definition to mean once every 100 years. This is incorrect. An individual could experience a 100 year flood two times in the same year, two years in row, or four times over the course of 200 or more years. So to avoid confusion, the NFIP uses the term base flood. A 100 year base flood is defined as having a one percent chance of occurring any given year. The terms base flood, 100 year flood, and one percent annual chance flood are often used interchangeably.

Okay, so we have really two major types of flood zones. We have the A-zone which is indicated in blue. And these are areas where they're flooding. The flooding is cause by riverine and coastal run up. That's the blue, and it's A-zone. Then we have the V-zone which is the red, and this flooding is caused by coastal flooding with velocity. And then we also have AEF or flood way. These dark areas, dark blue areas, are defined as a channel of a stream plus any adjacent areas that must be kept free of encroachment so that the one percent annual chance flood can be carried without substantial increases in flood heights. So essentially it's a definition how FEMA defines a flood way so that the flooding is contained within the channel of the stream and those areas adjacent to that so that the one percent annual chance flood will not increase the water surface elevation more than one foot.

Okay if we looked at an enlarged imagine of the flood way, you can see the grey squiggly lines which are based flood elevations. This shows the water surface elevations at the time of flooding. All of the elevation show are relative to local title diatom. Where you have major streams you have flood ways. You can see that these here, the grey squiggly line, these are the base flood elevations. This is the height to which FEMA has modeled that the 100 year flood will rise.

Okay so what's new? For us, the County of Maui, has an upcoming map revision which is going to be effective 9-19-2012, this year. So what happened was we had the 1981 when the joined the NFIP, 28 years later, we had the Digital Flood Insurance Rate Map, and then within three years we're having another revision. This revision will integrate the State wide hurricane study. And previously when it was proposed in August of 2010, the FEMA map was going to map areas around levies that were not certified as if they offered no protection. I don't know if you heard about the big thing after hurricane Katrina and the failure of the levies. FEMA's going around and trying to certify all the levies and levy like structures throughout the nation, and they wanted certification that they would offer the 100 year protection. So what happened was parts of Iao Stream and Kaunakakai Stream were decertified. So with this revision they were going to inundate the areas of the failed levies. But what happened was with congressional influence because there was a great out cry, there was an adjustment to FEMA's viewpoint whereby levies will remain. So we're not having any failed levies with this iteration of the map on September 19<sup>th</sup>. And they will remain until FEMA devises a way to measure the level of protection that a particular levy provides even though it is not accredited with providing the one percent annual chance flood protection. So previously it either provides it or it doesn't. If it doesn't, it fails. But since that, FEMA has said, well, they do provide some protection, but we don't know how much. And what they're gonna do is they're gonna come up with a modeling to show how much protection it provides.

Mr. Giroux: Carolyn? The last times we saw those maps, the Wailuku area, down by the industrial area, that was all inundated. So what you're saying is they've modified that so it's not in –

Ms. Cortez: That's correct. So the levies are still providing, or at least on the FEMA Flood Maps, they have not inundated those areas.

Mr. Hiranaga: Commissioner Shibuya has a question.

Mr. Shibuya: I have a question because you're talking about a volume of water per time, and that hasn't changed. So are you changing the depth of the bed, the stream bed? Are you digging it out?

Ms. Cortez: Well, it was the accreditation of the levy so that they –. Because it couldn't meet the 100 year protection, they failed it. And then it's like there's no levy there, so they ran the modeling as if there was no levy there, and it was inundated.

Mr. Shibuya: Because I'm more concerned in terms of what type of remedial action can we take such as dredge that, the stream bed, so you can move greater amounts of water. Then you don't have to deal with the levy aspect.

Ms. Cortez: So what Maui County now is doing, with through the Department of Public Works, is they're trying to accredit the levies. They're trying to fix it so that it will provide, actually, to the core,

it's a 225 year level of protection. That's their standard, and the County of Maui is trying to do that, I know, at least with Iao Stream, and I'm not sure what they're doing with the Kaunakakai Stream right now.

Mr. Shibuya: So for clarification, you're raising the levy higher. Is that what it is?

Ms. Cortez: I'm not – I think they're trying, as you said, they're trying to dredge it and they're trying to fix the sides because it's scouring, yeah, it's scouring now underneath and it's eating away at that, the area where the flat and the side of the levy. Sorry, I don't know the technological terms, but –

Mr. Hiranaga: The tow?

Ms. Cortez: The tow. Yeah. That's right. Okay, so you can see that this, this is the same parcel. Right now it's in an area zoned X protected by levy and this won't change for the next revision which is on September 19<sup>th</sup>. However, the preliminary map which shows the failure of the levy if we don't get it accredited, and they're saying they're going to give us about two years. This is what the same property will be. It's going to be inundated. And I can't see what the BFE is but I think it says seven, elevation seven.

Okay so what do we look at? For our definition, for development, means any man made change to improved or unimproved real estate and that's a pretty broad question. It's including walls, buildings, other structures, filling, grading, excavation, mining, drilling, dredging, paving or storage of equipment and materials. So this is the definition of development, and if you do this in the flood zone, we're required to, you're required to submit a permit, a Special Flood Hazard Area Development Permit shall be obtained from the Director before construction of any development begins. So this is in our Code and this is what we look at in terms of development in the flood plains.

Okay, flood zone A, if you remember that was riverine flooding, and our construction standards for that is to elevate structures to one foot above the base flood elevation, design structures to withstand flood forces, and to protect utilities. We also have a no rise and the base flood is allowed. So with the revision of Chapter 19.62 in 2009 we added a provision in the Code that the finish floor be elevated to at least a foot above the base flood or flood depth. We refer to this added safety factor as freeboard. Freeboard provides additional protection due to development in the flood plain and water shed. So if you can imagine a bathtub. We're all in a bathtub and there's a water level. And then if you throw things in the bathtub, what happens to the water level? It rises. So what we've done is we have both the no rise provision as well as the freeboard which is a one foot additional level of protection to protect from that rise, from development, within the water shed.

So no rise analysis. This is required for all development within A, AH, and AE flood zones which is riverine flooding. The thing to keep in mind is that no rise analysis may affect the design of a project. That in ways to mitigate the rise is what we're looking for in a no rise. So whatever you do in the bathtub whatever you add you cannot let the water level rise. And ways to do that is using post and pier construction as opposed to like a slab on grade. Because post and pier, you know, you have the area that's in the flood plain or the small area that you're displacing is smaller than like if you had a slab on grade. And also extension of wetlands to increase flood storage. As

Commissioner Shibuya said we can, you know, you can grade and you can kind of do a mitigative, like, I wouldn't say dig a hole, but it could be something like that where you're gonna – whatever you're putting in the flood plain, you need to kind of compensate by taking that out also.

Okay, V zone construction.

Mr. Hiranaga: Carolyn?

Ms. Cortez: Yes?

Mr. Hiranaga: Could you go back to the previous slide?

Ms. Cortez: Sure.

Mr. Hiranaga: So does this apply to tsunami flood inundation zones?

Ms. Cortez: No. Not this. This is only for A. And V-zones are mostly, are the zones that are kind of associated with tsunamis and hurricanes.

Mr. Hiranaga: Are you going to get to that?

Ms. Cortez: Yes.

Mr. Hiranaga: Okay, I'll wait.

Ms. Cortez: Okay, so V-zone constructions, or V-zones are coastal flooding with velocity and typically they are created by tsunamis and hurricanes. Coastal flooding requires a higher standard than the riverine flooding, and these include elevating structures to one foot above the base flood elevation where the lowest horizontal structural member is one foot above the base flood. Whereas the riverine standards require the top of the finish floor to be one foot above the BFE. And then we also have design structures to withstand flood forces and wave surges and to protect utilities. So that's a typical construction in the V-zone.

Mr. Hiranaga: So Carolyn, this is based off on mean sea level, right?

Ms. Cortez: Yes. Yes, that's correct.

Mr. Hiranaga: Does mean sea level or change, versus what it was 30-years ago versus today? Meaning did they set mean sea level in 1950 and that's it, that's the standard or do they revise it every 10 years?

Ms. Cortez: I'm not sure because they use to use the 1989 NGVD, National Geodetic Vertical Datum to measure. But now FEMA uses what they Local Title Datum, and I think that measures – it's datum to measure more local characteristics.

Mr. Hiranaga: What happens if a structure was built say in 1990 and meets that standard because of rising sea level? Today it does not meet that standard.



Ms. Cortez: Technically I think it would be grand-fathered, as we would other structures that met the standard at one time but no longer meet it now. But I don't know about the sea level rise how that affects the base flood elevation.

Mr. Hiranaga: Is there a margin of error?

Ms. Cortez: Yeah.

Mr. Hiranaga: You know, two percent or five percent?

Ms. Cortez: I think, well, when they do the modeling, when FEMA does the modeling, they, I guess they have a standard deviation, but I'm not sure what that is.

Mr. Hiranaga: But there is a standard deviation.

Ms. Cortez: I believe so, yes. Okay so this is a typical building section and this shows you the comparison between A-zone and V-zone construction. So in both the A- and V-zones areas below the BFE may only be used for storage, parking and access. If areas below the BFE are enclosed in the V-zone, enclosure must be comprised of breakaway walls. In the A-zone, areas below the BFE shall be designed to automatically equalize hydro-static flood forces on exterior walls by allowing for the entry and exit of the water. To achieve this, FEMA requires a minimum of two openings which are called flood vents located not more than one foot above grade, having a total net area of not less than square inch for every square foot of enclosed areas. So with the V-zone construction you have the post and pier. And then the A-zone you have flood vents. So this is mainly so that the flood waters can kind of go in and out without causing damage to the structure. In both areas below the BFE are only suppose to be used of parking, access, and storage. And then so when the 100 year flood comes in, you're suppose to have one foot, theoretically one foot of that extra protection of free board.

Okay the County of Maui is the only county in the State of Hawaii participating in FEMA's Community Rating System. The Community Rating System is a voluntary program which when a County adopts higher building and development standards, flood insurance policy holders receive a discount on their floor insurance premiums. So we are currently across eight, and we receive a 10% discount. We are working on becoming a class six which corresponds to a 20% discount, and as a County we currently pay approximately five million in premium which calculates to \$500,000 savings for our insurance.

Okay, so as Commissioners, what is your role with regards to flood plain development, in preventing flood damages, in protecting life and property, and in reducing the public cost for flood control, rescue and relief efforts? Well one way to do this is to create open spaces for properties that are subject to flood hazards caused by riverine and coastal flooding. And this is from the Community Plan that this use is intended to limit development on certain urban and non-urban designated lands which may be inappropriate for intensive development due to environmental and physical constraints such as shoreline buffer areas, drainage ways, flood plains and tsunami areas. So a good example how a open space, the open space designation along lao Stream, this is the Wailuku-Kahului Community Plan on the left here, and this is our flood hazard assessment tool. And as you can see the areas –. Well lao Stream here, this is open space, and here too open

space. It kind of corresponds here to our flood, our flood plain here and VE flood zone here. So you'll notice that the area designated open space is also corresponds on the flood plain on the FEMA map. Many large streams though are not protected by the open space designation. For example there's Waiokoa Stream, Kulanihakoi Stream, Waipulani Stream, Kamaole Stream just to name a few.

Okay another way. The Commission also reviews development within the Special Management Area. This gives you an opportunity to review the project impacts on flood plains and coastal areas. As your rule states they require that in a valuation of the potential adverse impacts on flood plains, shorelines, tsunami areas, and erosion prone areas be done. When you review an application that is located within or adjacent to a flood hazard area, the application's application and the Department's staff report should describe the existing flooding that occurs and what the impacts of the new development will be on the flood plain. Will there be an increase or decrease in the flood elevation? Will there be filling? How are increases in the base flood mitigated? Is there an analysis that includes the full build out of these development? Which means does it include all structures including walls or fences, future accessory dwellings, etc. These are the things that you should be looking at. And that's it. Thank you for your attention. Any questions? Yes Commissioner Wakida.

Ms. Wakida: Can you go back one slide please?

Ms. Cortez: Sure.

Ms. Wakida: One more. No.

Ms. Cortez: One more?

Ms. Wakida: Well, yes, one more. The red, the coastline is –

Ms. Cortez: V-zone. The red is the V-zone flood.

Ms. Wakida: But is that the coastline along here? The coastline is right –

Ms. Cortez: Right. It's some of the coastline, but also it goes into the ocean too.

Ms. Wakida: Can you explain that? I don't understand that.

Ms. Cortez: Yeah, it is confusing. With the iteration, with the Digital Flood Insurance Rate Maps that came out in 2009, the modeling that FEMA did it had to do with the run up. So what they did was as the waves crash against the shoreline and run up, they were taking some kind of a measurement of that. And then that's why it seems that the elevations were higher. The differences in elevations were higher, and also that the flood, the flood zone extended into the ocean.

Ms. Wakida: But what's the point of that? Is it for boaters? I mean, is it wave action that they're –?

Ms. Cortez: Yes, it's wave action that they're measuring. But the flood zone that we're concerned with is the one that's one the shoreline, on the land, yeah. But the modeling that they did, it's the way they did the analysis.

Ms. Wakida: So they're you showing some impact that far out into the ocean . . . (inaudible) . . .

Ms. Cortez: Some tsunami and the hurricane.

Ms. Wakida: . . . (inaudible) . . .

Mr. Hiranaga: Any further questions? Seeing none, thank you Carolyn.

Ms. Cortez: Okay. Thank you very much.

**The remainder of the items was deferred to a future date when the Members who were not present at this meeting would be in attendance.**

Mr. Hiranaga: We have 10 more minutes before noon, should we go on to Item D and E of the agenda? Item-D, D as in dog, acceptance of minutes.

Mr. Hedani: So move.

Mr. Hiranaga: Moved by Commissioner Hedani, seconded by Commissioner Lay. Any discussion? Commissioner Shibuya?

**D. ACCEPTANCE OF THE ACTION MINUTES OF THE MAY 8, 2012 MEETING AND THE REGULAR MINUTES OF THE NOVEMBER 8, 2011 MEETING**

Mr. Shibuya: The question is was Mr. Hedani present when we did discuss these minutes?

Mr. Hedani: Only in spirit.

Mr. Shibuya: It's a procedural question.

Mr. Hedani: I withdraw my motion.

Mr. Hiranaga: No, he's here.

Mr. Shibuya: No, no, that was in November, right?

Mr. Hiranaga: Do I have November? Oh here it is. Okay, let's have someone else do the motion then.

Ms. Wakida: I move.

Mr. Hiranaga: You withdraw your motion Commissioner Hedani?

Mr. Hedani: Yeah.

Mr. Hiranaga: Okay. Withdraw. There's no second, so Commissioner Wakida moves to accepts, seconded by Commissioner Lay. All in favor say aye.

### **Regular Minutes of November 8, 2011**

**It was moved by Ms. Wakida, seconded by Mr. Lay, then**

**VOTED: To Accept the Regular Minutes of the November 8, 2011 Meeting.  
(Assenting - P. Wakida, I. Lay, D. Domingo, W. Hedani, W. Shibuya)  
(Excused - J. Freitas, M. Tsai, K. Ball)**

Mr. Hiranaga: Okay, we took that out of order. The next one is May 8<sup>th</sup> 2012 minutes.

Mr. Hedani: Move to approve.

Mr. Hiranaga: Move to accept by Commissioner Hedani, seconded by Commissioner Lay. Any discussion? Seeing none, all in favor say aye.

### **Action Minutes of May 8, 2012**

**It was moved by Mr. Hedani, seconded by Mr. Lay, then**

**VOTED: To Accept the Action Minutes of May 8, 2012  
(Assenting - W. Hedani, I. Lay, D. Domingo, P. Wakida, W. Shibuya)  
(Excused - J. Freitas, M. Tsai, K. Ball)**

## **E. DIRECTOR'S REPORT**

- 1. Planning Commission Projects/Issues**
- 2. EA/EIS Report**
- 3. SMA Minor Permit Report**
- 4. SMA Exemptions Report**

Mr. Hiranaga: Moving on to Planning Commission Projects and Issues. We'll take E1, 2, 3, 4 together. Deputy Director?

Ms. McLean: Thank you Chair. In your packets you were provided with the approved SMA Minors, approved SMA Exemptions, and open SMA Assessments. Any questions?

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: I'm not being too critical. I'm just curious about some of these that are from 2007, 2008. What is going on? Are we delaying something or did the owner withdraw or how does this work? Why is it taking so long to get it approved? I'm just asking a general question?

Ms. McLean: I can't speak specifically about any of these. Sometimes there are agency comments that come back that needs to be resolved. Sometimes there are other requirements, like an EA requirement or something like that, another process that needs to be completed before we can finalize. We are working to also clean up the reports because sometimes things are finalized, but don't get taken off of the list. So I know we've made a lot of progress in that regard, but there may be still be some things that have been completed but still show up on the list. If you had particular questions, I'd be happy to look into each of those, but I can't, you know, that's a generalization.

Mr. Shibuya: I see Jeffrey is here, so I'm gonna ask him on this one. I won't use the name. It's 2009/0215 and it's the extend the second floor and garage.

Mr. Jeffrey Dack: Yeah, there has been no permit activity on that one and that file is closed actually at the moment. It won't show up on your next report, or it should not because it has been closed.

Mr. Shibuya: Okay thank you. That was easy enough.

Ms. McLean: Also sometimes for whatever reason applicants drag their feet on submitting if we need revised plans, if we need more information from them they don't provide and at some point we will finally send them a letter and say, you know, if we don't hear from you within 60-days we're going to close your file. And sometimes that prompts them to action, and other times we just don't hear from them, we close the file, they've dropped it and just haven't notified us.

Mr. Shibuya: Yeah I'll give you contrast here. The State of Hawaii has DAGS and this may not be the right, but this is an example of what bureaucracy does. They have all of these unfinished requests to modify and to repair State structure facilities, and they've now put these things on a computer file and after one year they still don't do anything. Rather than extend it, they just cancel it. That's the kind of stuff that I look at mischief, and that's what I don't want us to do either.

Ms. McLean: Sure.

Mr. Shibuya: I want integrity in the system. Thank you.

Mr. Hiranaga: Any other discussion? Seeing none, we'll move on to Item E5, discussion of future of Maui Planning Commission agenda. Commissioner Wakida?

**Mr. Shibuya had a general question as to what was the reasons for having applications dating back to 2007 and 2008 on the open list? The Department noted that some applications may require other permits or actions from other agencies before the Department can continue to process. The Department may be waiting for additional information from the applicant. Also some of the applications are closed due to inactivity**

**and have to be removed from the listing.**

**5. Discussion of Future Maui Planning Commission Agendas**

**a. June 12, 2012 meeting agenda items**

Ms. Wakida: We use to have on this, in this section –

Mr. Hiranaga: SMA Boundaries?

Ms. Wakida: Yes. And I would like to see that. I know we haven't moved on it, done anything about it for a couple years, but it's an interest in mind that I don't want to see get totally forgotten about. And I'd like to see, hopefully, that that will come up and that we remind ourselves.

Mr. Hiranaga: I'm sure that was a typo.

Ms. Wakida: It wasn't in the last one either.

Mr. Hiranaga: Good catch. Clayton?

Mr. Clayton Yoshida: Mr. Chair and members of the Commission, our next meeting is scheduled for, your next meeting is scheduled for June 12<sup>th</sup>. One public hearing item on discussion of utility pedestal walls as it relates to the County Ag District, and three SMA Time-Extension requests, to waive or not to waive. Plus, I guess it might be a good time to finish the orientation workshop that you're deferring from today. We are going to get busier from the June 26<sup>th</sup> meeting. We have two public hearing items and one EA review. And for the July 10<sup>th</sup> meeting, we have two public hearing items and one EA to review. So things are picking up. We do have a lot of these SMA Time-Extensions for you to consider, maybe more so than we had five years ago, with the current condition.

Mr. Hiranaga: Commissioner Hedani?

Mr. Hedani: Clayton, I was hoping to get, you know, from the stand point of queuing items for the Commission. You know, it's just the matter of not having projects that nobody's applying for projects or can we try to fill our agenda so that we're working from nine to five on Commission days?

Mr. Yoshida: Well, we're not getting as many applications as we had in the past, but there are – you know, sometimes it's not the quantity, it's which application? And there are some that are still pending like the Honuaula Project which if we just put that one item on the agenda it's gonna take – it may take the whole, from nine to five, and more. So we'll advise you on that. We have quite bit of industrial change in zoning projects like we saw today, like you'll see on June 26<sup>th</sup> and July 10<sup>th</sup>.

Mr. Hedani: From my perspective I was just wondering because, you know, typically, you use to see like five, five projects in a meeting, and we're looking at like one now, and I'm just wondering

whether we need two meetings a month if we're only going to do one project at a time.

Mr. Yoshida: Well, I guess for the –. Well sometimes it's difficult ascertain how long the Commission will spend on one item. It could take one hour, maybe six hours.

Mr. Hedani: I'll take the less time. The less items you have, the longer we take.

Mr. Yoshida: Probably so, but that's the near term projects.

Mr. Hiranaga: Clayton, before you schedule the balance of the workshop items, can you just confirm that Commissioner Tsai will be present?

Mr. Yoshida: Yeah we can call Commissioner, contact Commissioner Tsai and try to see if he'll be there.

Mr. Hiranaga: It's kind of a yes or no question. Ask him are you going to be there?

Mr. Yoshida: Yes. The short answer is yes.

Mr. Shibuya: And then tell him that we're going to have a written exam afterwards.

Mr. Hiranaga: We're going to defer it again if he's not here. Any other discussion? Commissioner Hedani?

Mr. Hedani: I wanted to reiterate what Penny said about SMA Boundaries. I don't know it's, you know, it's like a bludgeon effect to solving a problem, but when you drive in West Maui you see more and more developments occurring at the top of Cinder Cones, where agricultural, and I always, I swear I think I was sitting on this Commission when we approved, you know, the request that came through from the State Land Use Commission for the project. But there's projects where they're chopping off of the Cinder Cones and building houses on there. Dumping fill over the side, you know, so they can extend their houses as close to the edge as possible to maximize their views. And it's really kind of screwing up the scenic vista of the mountains that we almost took for granted that nothing could ever happen there before, and it's kind of distressing, I think. And changing the SMA Boundary maps is one way to solve it where everybody has to come before us before they get a permit for something like that. But, and that's the bludgeoning affect, you know, using a heavy tool of something like that. But I don't know if we have any other means of addressing concerns about preservation of view plains like that. Or if you take like the Pali, everything mauka up the Pali, could one day be covered by houses is that really something we all want to see?

Mr. Hiranaga: Alright. It's 12 o'clock and we'll recess for lunch, and reconvene at one.

*(The Maui Planning Commission recessed at approximately 12 noon, and reconvened at approximately 1:00 p.m.)*

Mr. Hiranaga: I'll call the meeting back to order. Continuing –. Is the Deputy Director coming back? Next agenda item is, we're going to C2 or D? C2?

Mr. James Buika: We'll begin with Tara Owens, and the managing Maui's dynamic.

Mr. Hiranaga: C5.

Mr. Buika: Yeah, so the training. Yes, on C5.

Mr. Hiranaga: Okay.

Mr. Buika: Good afternoon Commissioners, Planning Director, Corporation Counsel. My name is Jim Buika with the Planning Department. I would like to personally thank all of you for your service and expertise to the people of Maui. This afternoon we'll provide you with two training modules focused on the importance and requirements of mitigation along the shoreline and within the coastal zone leading to a future presentation by myself regarding your roles as Commissioners in the permit development process within the Special Management Area. Today we have the CZM team with us. We're the Coastal Zone Management Team, including Tara Owens, UH Sea Grant Agent who will present first. She's located here on Maui. And also representatives from the Office of Planning under the leadership of Maui's Jesse Souki, Director of the Office of Planning. With us today is Leo Ascuncion and Shichao Li who will present on the Coastal Zone Management Program. We will be taking the Office of Planning for a site visit tomorrow to the west side also. So to begin the training I'll just introduce the two topics that we're going to present today and I'll allow the presenters to introduce themselves. And since we do have a little more time, feel free to ask question. I can moderate the session here.

So the first presenter will be Tara Owens who is here in Maui County with us, from the UH Sea Grant Program. She'll present on managing Maui dynamic shorelines as an introduction to the Coastal Zone Management Act, HRS 205A by Leo Ascuncion and Shichao Li, Office of Planning, Coastal Zone Management Program. So I'll turn it over to Tara Owens for the first presentation.

Ms. Tara Owens: Good afternoon. Thank you Jim. Thanks Commissioners for having us today and especially to the Planning Department for including me in these sessions. I think most of you probably know me by now. I worked for the University of Hawaii as a Coastal Processes and Hazard Specialist. And as a grantee of the County, I'm co-located here, and I work very closely in coordination with the shoreline planners on a whole variety of shoreline development issues.

So I like to use the word dynamic to describe Maui's shorelines because I think it really conveys the essence of our challenges with managing shorelines. You have our beaches that are dynamic because they're beautiful, and they're unique, and they're kind of Maui's icon, and they're also dynamic because, of course, shorelines are always moving and the landscape is always changing. And in fact, probably most of you guys saw this is the paper just last week or the week before in the Maui News. I was glad, I was really glad to see that this made the press actually, and this article was written about this report which is a new report that came out. It was a cooperation between the US Geological Survey and the University of Hawaii Coastal Geology Group. And it's kind of taking a look back at all the shoreline data that they've collected over the years for Oahu, Kauai and Maui. And of the three islands, it turns out that Maui has the highest erosion rate, the greatest



extent of erosion which is basically 85% of beaches studied, and the highest percent of beach loss, completely lost to erosion which was about 11%.

So that kind really sets the stage for what we have to deal with and managing our coast line. And that's kind of my role here today since Leo and Shichao and Jim will be updating you about really the frame work for managing and regulating the coastal zones. So my role is to kind of give you some back ground information about coastal processes and the challenges and some of the solutions that we use in that process.

And so I'm just gonna go back to beginning really and talk a little bit about basic beach processes. Make sure everybody is on the same page, although as residence of Maui and probably good stewards of the ocean, some of this may just come naturally to you as well. But in Hawaii our beaches are typically very narrow, and it, compared to, for example, some mainland beaches. A lot of that is because there isn't a huge supply of sand available to our beaches. So they're narrow and they're steep. A lot of times the steepness is related to the wave energy right at the coast. We have mainly carbonate beaches like the sand you see in the left hand imagine. That sand comes, it's derived from shells of mollusks, coralline, algae, things that live on the ocean or grow on the reef that eventually erode, die, erode and becomes sand grains. Of course there are many fewer beaches that are the result of erosion of volcanic sediments and that make their way to the beach through streams and other erosion processing. So mostly our sand is carbonate. The interesting thing that a lot of people don't know about our sand is that some of it has been dated, and we know it's probably anywhere from 500 to a couple of thousand years old. And it was – and what that means is a lot of what is there on our beaches right now is all we have because the modern production of sand is minimal compared to probably what it was in the past. And probably what happened in, you know, between the present and the last 10,000 years we had periods of higher sea level where there probably was much more extensive shallow water areas where coral reef would have thrived which created a greater production of sand in those times, and resulted in today's beaches when sea level drops.

Basic geology of our beaches, you know, you have usually on a natural beach setting, you'll have the sand dune area, then the beach area, the dry beach area, and then that might be, that might be capped by either a reef or in some cases there's no reef present. So you have, a lot of time you'll have a fossil reef that then is covered by a thin veneer of live reef on top. And the basic geology dictates how a particular beach looks and functions if there is the absence of any coral reef off shore. Typically you have larger waves right at the shore what we a lot of times refer to as shore break. That might be something similar to what you find down in Makena. And then if there is a fringing reef then the waves, the wave energy gets dispersed farther away from the shoreline and that may change the way the beach looks, the size of the sand grains, the width of the beach, how the dune areas behave. But one important, really important thing to note is how critical those dune areas are and I'll talk a little bit more about that. But those dunes are the savings accounts for your beaches. When the beaches need sand, the dunes during high wave events, the dunes are where that sand supply comes from. So they're really important.

And then sand can be lost from beaches either by – sometimes you have channels through the reefs that were inside during periods of low sea level where you had rivers and streams dumping into the ocean and inside the channels through the reef. So you can lose sand that way, off shore. Or eventually as sand gets transported out into the pukas of the reefs over time, it reaches their

crest of the reef offshore and it can get transported so far off shore that's no longer available to resupply the beach.

So sand moves in two ways, onshore or offshore or along the shore. That's perpendicular to shoreline and parallel to the shoreline. When it moves up and down the shore or parallel to the shoreline, that's long shore transport. A lot of our Hawaiian beaches are dominated by long shore transport. You'll see, especially some beaches where there's a really strong seasonal variation. One part of the year you'll have a nice wide beach, and another part of the year, you have a very narrow beach and that often is related to long shore transport of the sand going up and down the beach depending on the seasonal swell regime.

And as the recent newspaper article depicted and just based on our observation over time we know that erosion is widespread on Hawaii beaches, and particularly in Maui. Incidentally one of the reasons that we think Maui might have higher erosion rates than the other islands, at least Oahu and Kauai, is because we have higher rates of sea level rise on Maui compared to the other islands. So I'll show you more about that in a minute. But some erosion is just temporary like the seasonal erosion I just referred to. You know, sometimes there's beaches around the island that are known for disappearing and then recover, seasonally. Then some erosion is chronic so slowly but surely the shoreline is retreating mauka over time, and the sand, the beaches are becoming narrower, sand is disappearing.

There are three basic causes of erosion and we'll look at each of these in a little bit more detail. First is human impacts to the sand supply. The second is current and seasonal waves that moves sand. And the third is sea level rise. I show a picture here of an area that is experiencing erosion and I might come back to this later in the presentation, but this is the area along Ukumehame where the State Department of Transportation is building a new revetment to protect the highway from erosion.

Okay so the first thing, we'll take the first cause, human impacts. Mining is one of the biggest impacts that has affected certain beaches in Hawaii. On Oahu it's Waimea Bay is the poster child for how sand mining has caused erosion. And you can see in the two photos there from Waimea Bay 1910 to 2000 how much the shoreline retreated. That's related to removing sand from the beach which causes a loss in the sediment budget, and therefore the shorelines have no option but to retreat. Then on Maui we had pretty extensive mining on the north shore during war time and then later for production of concrete, for infrastructure and also to supply the limestone for fertilizer, for making fertilizer, for the cane fields. Of course sand mining is now illegal, but the long term effects are still being experienced. And so on the north shore of Maui, Baldwin Beach actually has the highest rates of erosion on the whole island at about five feet per year. So you can see in that image there, you can actually see the revetment that – wish I had a printer but I don't – the revetment that protected what once was the limestone. And so sand was mined from all these areas up and down the shoreline.

Another type of human impact is hard stabilization of shoreline. I'm sure you guys are all probably aware of the relationship between building sea walls and loss of beach. But this is kind of a cartoon depicting how that happens, why that happens. You have a normal beach here, dunes, dry beach. As long as there's no development back here or there's nothing that impounds the sand, a beach will retreat landward, but maintain. It's the same beach width. So, the beach is just as wide, but

it has moved in the landward direction. However, if any kind of hard structure is built, that impounds the sediment behind it. There's no longer the normal supply of sand for the beach. And then on top of that as the waves pound against the structure, the sand is carried offshore as the waves are reflected, the wave energy gets reflected off the structure and carries the sediment along with it, which eventually results in loss of the dry beach in front of that structure.

And this is kind of a really good image of that process. So this is actually on the north shore of Oahu. But when we say with sea walls, they can either protect development and the land behind of the development, or in front of the development, or you can protect beaches, but usually not both. So here's an example that the sediment behind this revetment has been impounded so it's no longer available to supply the beach with sand. Over here there's no structure so the beach is retreating landward but the beach maintains itself. It still exists.

Okay so that was a quick examination of the first cause of erosion, the human impacts. The second thing is seasonal waves. Probably everybody in this room is some type of recreational user of the beach or the ocean so we're all pretty familiar with the seasonal waves that we experience here in Hawaii. But just imagine the island here in the center, this really shows the general direction of the different types of waves that we experience around the island. So the North Pacific swell, the trade wind waves coming from the northeast, south swell and the Kona storm waves from the southwest, and then these orange triangles show you the significant wave heights associated with those different swell regimes. So you can see we get really big waves from north swells and from our trade wind waves. And of course those affects how the beach behaves. And in some places we have really strong seasonal erosion.

This is one example, a really extreme example from Kaanapali in 2003 where in March of that year, nice wide beach. July of that same year, just a few months later, no beach at all. Part of this is related to the seasonal wave. Also, what was interesting about that year is we had when – what we call these mesoscale eddies. And mesoscale eddies are just big rotating masses of water that break off from current, usually from, right around the west side of the Big Island. So they break off and they cause elevated water levels across the Hawaiian Islands. The eddies can be a couple hundred kilometers in diameter and they can cause the water to rise by up to half a foot above normal. So whatever the normal tide is add half a foot to that. So this particular year in Kaanapali we had a sustain south swell and we had one of these mesoscale eddies event that was hanging around for months causing elevated water levels. When the water goes up, the waves reach farther inland, and therefore they can cause more erosion. Mr. Hedani is probably more aware of this situation than most since he's involved with the Kaanapali Operators Association developing the beach management plan for the Kaanapali area to deal with events like this. Something to keep in mind and I'll bring this up again later. Okay, so during this event there was an extra, maybe at the maximum, half a foot of water on top. So just that keep that number in mind.

Another area known for seasonal changes of the beach is Baldwin, the Baldwin area, Baldwin Beach. I don't have a date on this photo, but it was several years ago and then probably most of you are aware of the events there last year. This was August 12<sup>th</sup>. We had the trade winds pick up early last year and started transporting sand down the beach, towards Baby Beach end, towards the airport. And ultimately the restroom was lost to erosion. If you go there right now today, there's a nice wide beach in front of, in front of where the restroom use to be. And we're right in about that period of time where the seasonal erosion will start picking up again and Baldwin Beach will narrow

substantially.

Okay, so we've talked about human impacts, seasonal events. The third thing that causes erosion is season level rise. Two major processes that cause changes in sea level. So a lot of times we talk about global sea level rise, what's happening across the ocean, across the whole globe. And sea level rise because it's two processes, thermal expansion. So if the water is getting warmer, which it is. The water is getting warmer in the ocean. When water gets warmer, the molecules expand, so the same amount of water, I mean, the same water takes up more space so sea level rise. And then of course the glaciers that are melting in the Arctic and the Antarctic regions.

Then the other thing that causes sea level rise is the local tectonic brackets. So these are sometimes referred to relative sea level. So you have these adjustments of . . . (inaudible) . . . plates upon which our land sits. And that is definitely happening here in Hawaii. I think I've probably shown this to you before, but since we're talking about global sea level rise, the major, the major cause of that right now is the fact that the oceans are warming. So this actually shows you, over time, starting with 1885 up to 2009 what's been happening to the sea surface temperatures over time compared to years before. So I'm gonna show you. It's an animation and you can watch the years tick by down here and see, look at the sea surface temperature changes. Obviously red means the water is getting warmer compared to previous years.

The western Pacific where we have low lined island, island nations, is where we're really seeing problems with sea level rise right now. And these regions, and what you'll notice is Hawaii fits in a really nice neighborhood for the time being. Our water hasn't gotten quite as warm as it has as the rest of the Pacific. So just in general looking at the past we started seeing, once we started having instrumental records of sea levels we started seeing accelerations in the 20<sup>th</sup> century. So maybe a little stable before that at about three inches per each century, going up to six inches per century. Then this green line you see here is about the time from the early 90's on when we started having satellite data to record sea surface elevations and sea surface temperatures. And we've seen an acceleration for sure in the last couple of decades. So about a foot per century of rise. And then of course the projections for the future range anywhere from maybe half a meter up to three, four, five meters.

And this is our actual tide gauge data from our tide gauge in Kahului showing sea levels, water levels since the 40's. And as you can see there are fluctuations from year to year, but overall the trend is upwards. And that's a rate of about 2.32 millimeters per year, which translates, it translates to about nine inches per 100 years. Okay so what does that mean? Think back to the mesoscale eddies event in Kaanapali. That was half a foot of rise above the normal tide level. So six inches. So I use that as sort of, that event, as an analogy for what we might experience as sea level continues on a more regular basis, as sea level continues to rise. It kind of gives you an ability to picture what that means.

And in Hawaii, so I mentioned, local sea level rise has to do with tectonic activity. Basically moving from the Big Island in this direction, the rate of sea level rise is less severe. The Big Island has the highest rate of sea level rise because the tectonic processes are still happening. The mountains are still growing. The Big Island is growing and it's pushing down on the oceanic plates, the continental plates. And those flex on top of the fluid mantel below it. And as the flex, and the Big Island is pushed downward, basically relative to that sea level appears to rise. And then Maui's

next in line. And then as you move towards Oahu and Kauai you can see the rate of sea level rise decrease pretty substantially. So what's going on in the Big Island really actually impacts Maui substantially and relates back to us having higher rates of sea level – erosion – sorry, higher rates of erosions compared to Kauai and Oahu.

Okay, studies show 150 times erosion multiplier where sea level rise is along sandy shoreline. So, for example, three foot rise, beaches might recede by 450 feet. This is really a general rule of thumb. But that the take home message is a little bit of rise in the vertical means, can mean, a very substantial change in the horizontal. So think again about that. Six inches of elevated sea surface affecting Kaanapali in 2003, a little bit really affected those shorelines, and the hotels had some huge challenges on their hands during those times.

Okay, so that was erosion caused by human impacts – the sand supply, seasonal wave and sea level rise. So I'm gonna wind up here with some of the recent things we've been doing related to sea level rise or that have been happening around the island. This Legislative Session actually involves quite a bit of discussion about what to do with sea level rise. And ultimately the Bill, SB 2745 was enrolled to the Governor, and the point of this Bill is to create a climate change adaptation policy by amending the Hawaii State Planning Act to include adaptation priority guidelines. So it will be really interesting to see what this means for regulating development and how sea level rise will factor into that. Another very local initiative here is a group of planners from Maui County, along with planners from Hawaii County, have been working together on a project to make recommendations for rule changes for existing framework – SMA rules and shoreline rules – to allow for, or contribute to, adapting for sea level rise. And we expect that report to be completed and delivered to the Planning Department by, maybe late June or early July, so that will be coming. Focus really on implementation and not broad levels so the things we really can do at the local level.

Okay, so erosion, it's wide spread, it happening, what do we do? There's a whole range of options, and I have it sort of ordered here from one extreme to the other. Do nothing would be literally allow development and infrastructure to fall into the ocean. It's a very impractical alternative, but it has been done before. To the other end of the spectrum which is hard stabilization, protecting development at all cost, and sacrificing public resources. Two things in between, manage retreat, beach replenishment or dune restoration, temporary erosion control. I actually put this picture in here right before I came because I realized this was in the Maui News today. This is another picture from Honuaula, Piilani Highway from the, near the Laniopoko area where the road is being undermined by continuing erosion. And there are plans for future hard stabilization there as well. So, I think, a lot of people don't have a perspective on what is actually happening along this highway. Now we have three potential projects. The ongoing, right now, Ukumehame protection project. There is a proposed project at Olowalu that was approved by this Commission, and still has to get approval from DLNR. And then there's a third planned project at Laniopoko. So there is, it looks like we're on the path to hardening this highway, rather than looking at alternative solutions. So that's just something to keep in mind, and maybe the community might not always be aware of.

So in terms of temporary erosion control . . . (inaudible) . . . , there's a lot of examples about, of that, around the island. This is one example, story, that Jim and I has been following very closely. And now this project is sort of the next phases of planning. But you can see the pictorial history here.

In November of 2006, this is what the shoreline area looked like. There was a little bit of erosion control here, but the rest of the shoreline was unprotected at this point. And there was quite a nice beach, but you see how close the shoreline is to the actual condominium buildings behind it? In 2007 there was a high wave event. A lot of erosions. Building was apparently within a few feet, maybe five feet, from the actual erosion . . . (inaudible). . . So a critical situation and the County and State both approved, authorized the use of temporary sand bags, or geo textile, large sand bags, to protect the condominiums temporarily. So that was January of 2008. This was a picture from May of last year, and it look about the same today. However the Hololani is working with Sea Engineering to submit plans for permanent structure here which will be a, I think at this point, they're proposing a hybrid revetment/vertical sea wall. It will be the first seawall approved, if it gets approved, in Maui in quite a long time to protect a private development. So the decisions we're making now are, you know, we're kind of coming to a cross road and this Commission in particular is gonna have to face some hard decisions in the future. And this will be one of the first.

Manage retreat was another option. You might think of our shoreline rules as a form of manage retreat. And, you know, the shoreline rules were established in October of 2003 with the purpose of moving development out of harms way, planning for obsolescence of structures, insuring shoreline access in the future, both to and along the shoreline, and limiting the types of structures and activities in the shoreline area. In looking back now, the shoreline rules have worked pretty well for putting a buffer between new development and the shoreline. On the other hand, the predominant challenges that we're faced with now is pressure from developers to expand on existing development that is entirely or partially in that setback buffer area. And so that puts us in a position where we're increasing investment back expectations, right next to the water, and makes it ultimately harder to make choices to protect the public resources, like beaches and access. They're really hard decisions when it comes down to a choice between private and public. But there are a few opportunities to update our SMA and shoreline rules that might make it easier in the future for planners to limit expansion of these kind of activities, like certain types of repairs and things in the shoreline area if there was interest in that.

Another good solution for managing erosion are beach management plan, and so this is one of the first examples of that on Maui where the Kaanapali Operators Association has – they have a hui of hotels that have come together and they're working with Sea Engineering and the State and the County to develop a plan for managing their shoreline which includes everything from maybe they re-nourish certain areas where there is known chronic erosion. And of course for the hotels, the beaches is an important amenity that they want to protect to what if there's another mesoscale eddies like we had in 2003 and they need to implement emergency protection measures. Can they get pre-approvals for that from the County and State and make it easier to manage the beach in a temporary but responsive way?

Another solution is beach nourishment. This has been used minimally in the islands and minimally on Maui. The two big examples are this one, at Sugar Cove, on the north shore, and more recent one at Stable Road on the north shore. But putting sand on beach in the long run in the right circumstances can result in a nice beach and provide erosion control. There are lots of pros and cons to beach re-nourishment. I won't go into all the details but doing it, the challenges are that it's expensive. In the long term the sand source may be an issue. There are, there can be some environmental impacts already associated with this even though it's considered a more favorable option, but water quality being one of the potential impacts. However if they don't we may be

continuing to lose beaches that are important to economy and to the culture. We may promote shoreline hardening by not offering alternative solutions, limiting the ability to storm damage and of course shoreline access is really important.

Protecting the healthy dunes that we have, or restoring the degraded dunes that we have is another really good solution that we're using more and more on Maui. I have a couple of examples coming up, but in some circumstances it's a very good option. And if it's done well, it can be done quickly without having to go with, without having to go through lengthy permitting processes and things that might be associated with some of the other options like beach re-nourishment. Again the sand dunes are your bank accounts to the beach. So when you get high waves, they feed into the sand dunes, the sand is transported to the near shore area, it makes the water shallower, waves break farther offshore, it reduces the energy at the shorelines, and then once the big waves are gone, the beach over time recovers. It can be a matter of weeks or months. Sand is transported back up on to the beach and ultimately back up into the dunes.

In South Maui, we've done, we have a long term program for dune restoration, so you can drive anywhere along South Kihei Road and you can still see sand fencing and dune restoration signage. It worked very well in South Maui. We have a volunteer group that actually does most of the implementation in partnership with County Parks, myself, the Planning Department. This is a project we did right after a big storm in 2010, or 2010 -2011. The project that's in progress right now is Kahana Village on the west side. This was a really good opportunity where the condominium complex had placed unauthorized sand bags to protect their shorelines during a short lived high wave event that caused a little bit of erosion on their property. Probably the beach would have – the beach did recover, so the implementation of sand bags was really unnecessary in this case. But they existed for a few years until they were discovered by the State, and the State asked the AOA to remove the sand bags. But in the process of doing that we recommended to use this as an opportunity to do a dune restoration project. Use the sand that was contained in the sand bags that was purchased from inland Maui Dunes, and replace that sand in the dune area, bring in some additional sand if needed and then replant with dune colonizing native vegetation. And so the pictures you're seeing here before is on the top and then after, the two bottoms, sort of are after. And this was just after the sand, the Naupaka was cut back in the sand from the sand bags which were placed on the beach. But prior to any re-vegetation. And the condo association is thrilled. They love the way their beach looks. They, for the most part, feel like they're receiving or will receive as much protection from this sand dune as they were from their unauthorized sand bags revetment. So that was a win-win for everybody.

Other dune restoration type projects around the island. A lot of efforts on the west side going into dune restoration and creating nice walkways and access paths, educational signage. And I'll end on this very happy note. This is our new dune ADA compliant dune walk over in Kamaole III Beach Park, built entirely by the South Maui volunteers with a grant from the Hawaii Tourism Authority, and in cooperation with myself, Planning and Parks. And it was recently opened about two weeks ago, and the blessing is actually this coming Friday. But these kind of access pathways are important for dune restoration because especially the highly used beach park, if allowed, the dunes themselves and the vegetation would be trampled because the entire dune area would be used for access. So we have these designated access pathways which allows people to get to the beach while maintaining actual dune processes. And now for the first time we have one that actually will allow physically limited citizens to get to the beach. And the picture on the bottom right is a fellow

who came to visit the islands from Canada, and he happened to break his legs, both legs playing hockey. But he had already scheduled his trip to Maui and he came anyway and it turns out he was staying right across the street from this beach park. And this would have probably been one of the only locations that he would have been able to get access to the beach, right to beach. So happy story. And I thank you for listening today. And I think I can entertain questions.

Mr. Hiranaga: Thank you Tara. Questions Commissioners? Commissioner Wakida?

Ms. Wakida: The highway that runs from the Pali to Lahaina, has anybody done a model? You know, they're currently now doing a revetment project and that's the one in paper today, and then you said a third one. Has anybody done a model to say, well, if you go ahead and harden all that, this would be the affect on adjacent properties or other coastal areas?

Ms. Owens: Okay, so the project that's going on at Ukumehame, there was no regulatory review of that process, no environmental review. So I guess what I'm getting at is the EA would be one way of kind of looking at the long term impacts, and maybe alternatives and the cost of the alternatives. In that particular case the project was implemented as a post tsunami activity. The Governor had waived environmental regulation because the tsunami was declared it was a disaster declaration. So the Department of Transportation was able to do that project without County or State review. The other two projects will go through the full review process presumably and would come through this Commission. Olowalu actually already did receive approval.

You know modeling that's an interesting question. We know that obviously sea walls cause loss of beaches, and they also change the face of the shoreline forever and the ability to access the shoreline and walk along the shoreline. Yet in the short term it can be cheaper to harden and protect the shoreline than perhaps move it. And so I think that's the basis of the modeling really, and the reason that the decisions are made to harden. The problem is one hardening project typically leads to another, typically leads to another, if you harden the area right next to it. In fact, at Ukumehame where the existing revetment is that they're expanding on, this study says that the area just adjacent to that revetment has the highest rates of erosion in West Maui. Probably partly related to the existence of that revetment because we usually end up having erosion on this length of the seawall which leads to continued hardening which is exactly what we're seeing at Ukumehame right now. So I certainly would urge the community to really think hard about the possibility of relocating the highway.

Mr. Hiranaga: Commissioner Hedani?

Mr. Hedani: Tara, you know the, the only case that I've seen a rock revetment work properly is the Mahana Twins at the north end of Kaanapali. About 30 years ago, the Mahana Twins are built on a floating slab of foundation. They don't have piles that go down to the, the bed rock. They had a storm event that came in where the structures were threatened. It came within 20 feet of the building. And because it was on a floating foundation eventually the entire building would have collapsed into the sea several 100 units. What they did was they worked with – I thought it was Ralph Hayashi who was the Public Works Director then. I called it a Hayashi wall. It was actually a Sea Engineering wall that they developed. And it was a rock revetment that was placed sideways that mimicked the slope of the beach and was buried so that what happened was the waves ran up the rock wall, dissipated their energy instead of being reflected back into the ocean, and then



when the storm passed, when the erosion event passed, it protected the structure. When the erosion then passed, the waves from the other direction came by and filled the entire area in so you don't, can't even see the wall, and it disappeared, 99% of the time. To me that was kind of like the best case scenario of how to do something that works when you need it and isn't there when you don't need it. And I don't think in that case it affected long shore transfer of the sands and it did not cause erosion on either side of the Makana. What I was hoping because it was behind Jersey barriers was that what was happening at Ukumehame was something identical to that. A revetment that would have mimicked the slope of the beach because it was about 1,000 feet of sand beach that we had at that particular location that they're working on. That would then allow the processes to cover it up, you know, during periods when we don't have high storm waves. What you're telling me is that they're putting in a traditional revetment?

Ms. Owens: I don't know. I actually have never seen the actual plans, the engineering drawings for that project because -. I'm sure that DOT would make them available if requested.

Mr. Hedani: And the further problem was that, you know, like in the case of Kaanapali where you see that erosion event occurring. When the swells change, the entire area comes back where the beach ends up 100 yards wide. So it is dynamic. It moves back and forth. And it's kind of where you have to work with the ocean in order to make it an acceptable solution.

Ms. Owens: You're right. And there can be circumstances where structures can work. And often we try to say, at least if we're gonna to use structures as a solution, maybe also consider sediment replacement along with it, where it's possible.

Mr. Hiranaga: Commissioners Wakida?

Ms. Wakida: On your, your slide and your discussion of the dunes restoring the beach. Would it be correct to say – getting back to highway . . . (inaudible) . . . west Maui area – that where the highway is very close to the ocean therefore it prevents that because it's so close it prevents any kind of dune restoration of the beach? Is that a factor?

Ms. Owens: That's right, and really they are only localized areas as sandy beach along the highway, and the whole region is already depleted of sand. So creating a beach or a dune there, at this point, is, would probably be impossible. It would require more sand than we would ever be able to come up with. But for the highway, the thing that bothers me is even though there are some areas where, of course, the highway is being undermined by erosion, there are other areas where it's not being undermined, but it's still very close to the shoreline and almost at sea level. So even if we protect these localized areas, and in the process of doing that we're changing the face of the shoreline forever. So even if we protect those, we are gonna have events in the future of high waves, maybe tsunamis that are gonna inundate the highway, maybe even destroy the highway regardless of the protection at those other areas.

Mr. Hiranaga: Commissioner Lay?

Mr. Lay: So have there been studies where we're hardening the shoreline, where a wall would be in place like Commissioner Hedani had suggested, where the sediments would be deposited behind the walls, thus filling up that area between your harden shoreline and the wall. And when those big

waves come in it would, you know, at least break up that energy before it hits the shoreline, but we still have a chance of, I guess, building up the shore? Because, you know, a wall in the water somewhat.

Ms. Wakida: Well, I'll give you an example. Let me go back. A similar wall was built at Sugar Cove, similar to the one that Commissioner Hedani was describing in Kaanapali where there is a, there's actually a vertical sea wall and then underneath that there's a very low sloping, what you might call a revetment or a cove on that wall. So this is a scenario where we coupled building a wall with, bringing in sand. And it's been happening. You know, they've brought in sand to this beach every 10 year, or every year for maybe 20 years, and they've managed to create and retain a beach there. So that's a possibility and if building a wall or a revetment to protect the property is the only option, there's certain circumstances where this could probably be this type of coordination between hardening and bringing in sand should be considered. Every situation is unique. You can't say that all hardening is bad, but it has to be done in a careful way.

Mr. Hiranaga: Alright. Thank you very much. Commissioner Shibuya?

Mr. Shibuya: Well, I'm just looking at in terms of redirecting the waves or mitigating some of the waves strength. And I know the surface don't like it, but I would like to see some experiment or modeling on tetro-pods or geo domes out in the ocean somehow deflecting, redirecting the forces before they come close to the shore.

Ms. Owens: Okay.

Mr. Shibuya: Can we, can you expand on something like this or maybe you're experiences are more than just my theoretical thought?

Ms.Owens: No, that's a very good thought actually. There are projects that have been done in other places just like you described where you're basically creating offshore artificial reef systems. There's different mechanism for that. There's one that – Jim has actually done some exploration or some research called reef falls that are deployed offshore. The idea is to build a reef which reduces wave energy offshore which then hopefully reduces erosion right at the shoreline. It's something that's never have been really tested in Hawaii anywhere. And given limited options for managing these problems, I certainly would like to see some efforts put into researching alternatives. Researching maybe finding a funding mechanism to do that, to do that kind of research or even to test the project with it.

Mr. Shibuya: Right. Well, because you have those geo domes or these domes that Jim is talking about. They don't have to stick above the water.

Ms. Owens: No.

Mr. Shibuya: It's below the water.

Ms. Owens: That's right.

Mr. Shibuya: And the tetro pods can be below the water and they form a habitat for the very types

of species that we're trying to keep. And then at the same time we're trying to lessen the force that hits our shores, so we've got a double whammy goodie here.

Ms. Owens: It could be. It could be. You know like if no research has been done, and of course, any project like that where you're trying to engineer a natural processes can have unforeseen consequences and so it's not as simple as it sounds, but it's certainly something worth exploring.

Mr. Shibuya: Sure. Thank you.

Mr. Hiranaga: Commissioner Hedani?

Mr. Hedani: You know following up on what Warren just said, and this is something that I've suggested to Sea Engineering in the case of Kaanapali, although they tell me that it won't work.

Ms. Owens: Oh yeah, okay.

Mr. Hedani: Well, not what Warren is suggesting. But I suggested to them that they look at a system called whisper wave which is a floating break water that's built with little plastic thinker toy type plastic floatation devices that are cabled together with steel cable, and can be a 100 yards long. And you link them all together and you anchor both ends to the ocean. And it dissipates the waves. They use it in harbors. They use it in other more calm waters to make the water flat so the waves hit the system. And you have rough waves on one side and calm water on the other. And the idea was to dissipate the wave energy before it hits the shore instead of picking up the pieces afterwards which is what we're trying to do now. And they're, Sea Engineering is convinced that it wouldn't work. The developers of the system say that they can handle a 10 second wave which is like a really large wave, so that's also something that we're exploring. The idea being we know when the storm is coming or the mesoscale eddies is coming because a lot of times they'll last more than one day before it hits, or we can deploy it as it hits if there are people brave enough to do it.

Ms. Owens: So you're talking as a temporary measure?

Mr. Hedani: Right.

Ms. Owens: Okay.

Mr. Hedani: When the storm passes, you remove it and put it in storage. So that's another possibility.

Mr. Hiranaga: Commissioner Shibuya?

Mr. Shibuya: Another alternative is that we need to lift the Maui island, the entire island, a little higher then we don't have this problem.

Ms. Owens: Unfortunately Maui island is sinking right now.

Mr. Shibuya: Yes, so we need to lift it up.

Mr. Hiranaga: Okay. Just a closing comment for someone who has surfed for over 40 years, this discussion is not being received well. Ways to diminish surf swell? You know, you move the road inland that's what you do.

Ms. Owens: That's a good idea.

Mr. Hiranaga: Thank you. Continuing on.

Mr. Buika: Thank you Tara. Thank you Commissioners for your comments and questions, and I'd like to thank the Coastal Zone Management Program, University of Hawaii, the Planning Department for supporting Tara's position. With the County you can see how valuable she is in all of our, in an advisory role to us. And Tara also supports the Parks and Recs Department, the Department of Environmental Management and Public Works in her role also. So I'd like to turn it over now to our special guest from Honolulu, Leo Asuncion who's the Planning Program Management for the Coastal Zone Management Program, and Shichao Li who is a planner with the Office of Planning, both from the Office of Planning, who manages the Coastal Zone Management Program. And we'll discuss the Coastal Zone Management after.

Mr. Leo Asuncion: Thanks Jim. Mr. Chairman, members of the Commission. Thank you for inviting me over today. As Jim said, my name is Leo Asuncion. No, I'm not a Maui body. My dad did come from Lanai though. I know got a couple of Leo Asuncion on the island. There's also one in our email that I get her email a lot too. Also with me is Shichao Li. He's Planning and Policy Analyst that takes care of our SMA coordination Statewide for all the four counties. So any type of SMA questions, you know, Shichao is the guy to call.

I wanted to just brief you a little bit on the Coastal Zone Management Act and the SMA Permit and how it operates in Hawaii. So just quickly, and you do have the handouts of the slide as well. I'm gonna cover the background of the program, the components of our CZM Program. It's just not the permitting. We do a lot of planning as well. The SMA Permit. Looking at the objectives and policies that are in statutes. SMA Permit conditions and also other CZM topics that our program is taking a look at.

So the Coastal Zone Management Program, what we try to do is we try to balance coastal resources, coastal resource use, protection of the benefits, and also looking at the economics of it. It's your basic three leg stool that we have to balance all of this to come out with the right decisions on how to manage our coast lines. Other components, important components, we have a Federal consistency program within the program itself, and I'll go into that a little bit later. Of course the SMA Permit which is the most recognized component where everyone including the public gets involved. Then we also have other program components and I'll get into those as well.

The Coastal Zone Management Program is housed in the Office of Planning. We are part, attached to the Department of Business and Economic Development and Tourism as a attached agency. We have two divisions, the Planning Division and the Land Use Division. Under the Land Use Division, those are the planners and their manager is Rodney Funikoshi. He appears before the Land Use Commission to provide the State's position on land use district boundary amendments and the like. I think they were just here yesterday on a docket. And we have the Planning Division which houses, which has as part of the division, the Coastal Zone Management Program, which

I'm the manager. And we have our Special Plans Program that looks at economic development grants and studies, and that's their focus right now. And we also have the GIS Program which is the State's repository for all GIS data wherever it may have been created. We have one central server. Not that we hold all of the data, but it's also a place that you can come and to find out where else there's data. We might have some at the University, we might have some here at the County and the likes, but we're just one central area that you come and check it out. And also on the website we have a lot of layers. We have about, I think, about 120 plus layers right now that you can actually use. And we're trying to get to the point of developing the easy to use viewer on your website, so that's gonna take some time. That's more of a capacity server problem from the State's side, but we're looking into that. We just have a new CIO at the State, and he's heavily into GIS and he got a pot of money from the Leg this year, so hopefully he can make it work where we'll have one user friendly system.

Turning to the Coastal Zone Management Program, there was a national act back in 1972. And the key thing about the National Coastal Zone Management Act was Congress realized that the States were in the best position, and States being the coastal states, were in the best position to manage the coastal zone. We already had, you know, the Land Use and all of the policies already in place, and basically we're the closest. When you look at the Federal level, you know, the States are the creatures of government, and, you know, and it's almost like the home rule issue, right. From the State level, where we have the Counties with the home rule. Same thing on the Federal level. So that's what they recognized.

Key points about the CZM Program. It's totally voluntary. We go into a Federal State partnership, basically NOAA is our funding agency, and the CZM Program then goes into a partnership with them. What we do get out of participating we do get Federal funds, and I'll touch upon how much we get per year. And we get to administer – and then we have the privilege of administering the Federal Consistency Program.

This here is a map, a little bit hard to see, but we outlined the coastal states that are participating in the National CZM Program. There are 34 states which includes five US Territories. All the way on the right side you see the blip on the lower right, that's Puerto Rico and US Virgin Islands. They're part of the program. And if you go all the way down to the left, again, about the same coordinates there, that's Guam and Saipan, CNMI. They're also part of it. American Samoa to the south, Hawaii in the middle you see there. You see a withdrawn on Alaska. What happened was last year in their Coastal Zone Management Act for the State they had a sunset date. They failed to revive the program, and so the program died. And it was also a budget matter item for them. It was big cost item. The partnership that we go into with the Federal government, it's one to one matching funds. So whatever they give us, we need to find a match. For Hawaii, you know, we're a network type so we pull together all of resources to match the dollar amount that they give us. Alaska was not a network program. They had their own, so you could just imagine. You know, if we're talking two, three million dollars, they gotta find two, three million dollars in their general fund to keep it going, so that was also a budget item. There is talk about bringing them back into the program, but they would have to go through the whole process, you know, and I believe it involves like LEPA documents and all the rest because it is a Federal undertaking and they would need to go through that whole process to be re-certified as a CZM Program.

Hawaii's reaction to the National Act was immediate. In 1973 we went before the Legislature and

we said we need to create the program. The Legislature said yes. We were back before the Legislature in 1977 after doing all of the studies, and I can tell you there's a lot of paper I have, like about 14 volumes sitting in my office that they looked at before they actually said here's the program. Everything from the legal side of it to, you know, conservation, to a whole lot of different volumes. So in 1977, the Legislature said, okay, here's the CZM Program, that's Chapter 205A in the Statutes today. And then in 1978 we forward that to the US Department of Commerce which is the lead agency for NOAA and they approved our program. So we've been a program since 1978.

Like I mentioned we are a network. What we realized, same like Congress, a lot of rules and regulations were already in place. We had agencies taking care of different areas of the coast line and the ocean. An example, we had already DNLR was already had their rules, the Division of Aquatic Resources already was created. We didn't want to use . . . (inaudible) . . . any of that, so we said, why don't we just go in as a network of a program and that the CZM Program is really the policy umbrella agency. And then we work closely with such as DNLR, Department of Health with their regulations like the Clean Water Act and the like. We do work with our Planning Departments, all four Planning Departments to make sure because they do the permitting side of the areas as well as the Board of Land and Natural Resources. In recent times we brought in like Department of Agriculture because they have some say on coastal agricultural areas, and now getting into aqua-culture. They do have their branch there. And just keep it that way. I mean, we didn't want to like re-invent. We didn't want to say get rid of all of these other agencies and just have on big super agency like they have in California. It's let's just use what we've got. We already got the regulations in there, so we feel that we have enough. At that time, when you looking back at 1978, we actually managed our coastlines and oceans.

We received approximately \$2 million annually from NOAA. About 45% of that goes to three counties – Maui, Hawaii and Kauai – to run the SMA Permit process, so you know, about, roughly about \$800,000 goes out to the counties, and that basically provides you some staffing, some of the administration work and the like. It has, you know, travel for our meetings and all of that, that's all rolled in. The City and County of Honolulu does not take money from the program, but they do the permitting anyway. So we have an agreement that, you know, they just take care of the permitting, and we don't take any money. The one thing that they got off on is basically reporting requirements. We have reporting requirement to NOAA. So likewise we asked the Planning Department, you know, what have you done in the past year and then we roll that up. So that City and County of Honolulu, we try to get it from public documents. They don't technically have to report. They don't have that requirement since we're not taking any of the money.

Federal consistency. This is one important program that I think a lot of people don't know about. When we approved as a National, as a partner in the National CZM Program, it allowed us to review Federal projects. And basically to say that, you know, the Federal government can't just come in and do what they want especially in the coastline and the ocean. So anytime they trigger, if it's a Federal agency activity, a Federal Permit like you require Army Corp Engineer Permit, or Federal financing, you're using Federal money, you need to come to my office to get a determination if you are consistent with our enforceable policies of the State, and that includes rules and regulations and ordinances of the Counties. So we do a Federal Consistency check for any Federal Project. There is a list, sort of like exemptions, like if it's just regular maintenance and the like. Those are waived, but they still gotta turn something in. You still gotta consult with our office. So I have one planner

that does it all. He's been doing it for over 20 years so he know it back and front. His name is John Nakagawa. And so any type of Federal Consistency or any type of Federal action matter you can call him and see, you know, if you come through the Federal Consistency Program and review.

Another of our programs that we've been trying to continue is our Coastal and Estuarine Land Conservation Program, or CELCP. And this program, it's a competitive – it was established in 2002 – it's a competitive grant item, and it's to acquire coastal and estuarine lands, important land that, you know, over time that, you know, if you do get them, if you have a willing buyer, or willing seller, and then you have the State CZM program along with others that can pull together money, we can then acquire coastal and estuarine lands. Over the years we've gotten as a State \$9 million from this program. And more importantly we've leveraged it to get another \$27 million from private sources and other State sources. There's a legacy lands program with DNLR so it's just a pooling of money. Maui County, you folks in the past have gotten money for Waihee, Waihee Coastal Dunes and Wetland Reserve, 250 acres. That was about \$5 million total to purchase. A million came from the CELCP program, a million came from US Fish and Wild Life, and the rest came from State, County and private contributions. Another one was Muulea Point. That was back in January 2005, 70 acres, \$4 million total. Two million from CELCP and two million from the Trust for Public Land. So basically every County has gotten about two areas. Last year we turned in for Paukukalo. But because it's competitive, we ranked 18<sup>th</sup> nationwide on our application. There's only about \$3 million that the Feds give in this program so you always remain hopeful that, you know, the first guys cannot use the money, and if they get down to 18, you know, at least we get something. And then we need to then, from there, we need to figure out how much more we need to get because you still have the willing seller on record because he basically signs the application that, you know, we are willing to sell if we can pull the money. But it is very competitive. I think last year's number one was from California and already their project was like about \$2 million so they would have taken two-thirds if they could, you know, pull it all together. I haven't heard what happened, but, you know, I remain hopeful.

NOAA, you in the President's budget, this program is always zero going to Congress. But NOAA somehow finds money. They move money around and they always seems to find \$3 to \$5 million to put into this program. So every year they're asking us, you know, turn in an application, the 34 coastal States and Territories. So, 2013, we haven't heard yet. Or for 2012, for 2013, we haven't heard yet. So as soon as we have that, you know, we do have a list of projects that has always been kind of on the burner. Maybe we go in with Paukukalo again. Maybe we ask the Planning Department, you know, who should be, or what other site might, you know, want to apply.

Another key program that I have, and this is also Federally mandated is the Coastal Non-Point Pollution Control Program. It is a joint EPA/NOAA mandated program. It looks at basically watershed planning. But basically what it does is it has management measures for different types of activities on land that whenever things happens, say in agriculture if you're grading, it may end up in a river, which ends up on the ocean, so that's the non-point part of it. And what we did in a couple of years ago is we took – if you look at the EPA documents, there's like about six volumes and they're all about this thick, and it has BMPs, it has management measures and the like. And what we did is we've created this Hawaii Watershed Guidance, and that's about 180 page document. It's tabbed. It's easy. You flip through your section and then you see the management measure and then it points you to a BMP. It gives you a short description of what the BMP is. And then, you know, if you want more detail, it points you to the exact pages in the EPA document.

That's online. Everything's online and, you know, pdf searchable so if you're looking for a certain activity that you want to look into different BMPs. Of course, BMPs are site specific so this is just, you know, general guidance on things to consider. And what we're doing right now is we're actually here for a training last – no actually, yeah last month, late last month, and we've been taking it around the State. And to get really, the audience right now is like government planners and reviewers because we hope that they're gonna take it and say, you know, Developer-X you're doing this, take a look at this guidance and see if it can help you. It may or may not help you, but we just want that awareness right now. And that's the extent of the program. It's more of an awareness of what's out there as far as BMPs that EPA has looked at that should work. But of course they reserve it because it is site specific. But at least it gives you some ideas on things to consider for BMPs.

We're also working to put the training slides online so that anyone can see it. Because I'm thinking, the thought in our office is the next iteration of this is that we get to the practitioners that they are aware of the BMPs and the guidance document. So it's not only government reviewing, but hopefully some awareness out in the field that they start to use just the BMPs and then it becomes, you know, kind of like common practice like engineering. You already know certain BMPs are just common practice, so, you know, you kind of start from there. So that's the whole point of the program.

Other funding sources, real quickly, we do have projects of special merit, that again, is competitive. We file every year to say, if we want to focus on certain things, like last year, or this year, we put in an application to ask for additional funding to look at climate change adaptation. That money did not go through, but that didn't stop – you heard Tara, we worked on a Bill, Senate Bill 2745 and there was a companion bill. So we kept the work going but, you know, there's always the hope that you can ask for a little bit extra money to do some of these projects. There's also what maybe key to the County is the Army Corp has planning assistance to the States where they have a pot of money that they use and Honolulu District has their own pot of money, and they look for projects where they can help basically bring their expertise and their engineering, even their economics people and the likes, to help do on the ground projects, mostly related to water resources. I know Honolulu County got some money this past year so they're doing – it's usually one year projects. So if you have a huge project you might have to break it down to see where exactly the Army Corp can help you, but that's a source of funding. We use some of the money to do some of the climate change when the planning assistant – when the project of special merit from NOAA, the money didn't come, returned to the Army Corp and say how can you help us? And they came with a, you know, a small pot of money, about \$60,000 which continued some of our studies that we were working on. So that's one key where I've seen, you know, counties, if you have a project in water resource and you can define it, then contact the Honolulu District and see if you can roll your project into there. So it's for information for you folks.

Turning to the CZM area. The Coastal Zone Management Area – and this is not the Special Management Area – the Coastal Zone Management is defined in Statutes is actually the entire state. Roughly the rule of thumb on the mainland is Coastal Zone Management Area go 30 miles inland. No place in Hawaii is more than 30 miles so they overlap, so it's the entire island. And then we go out to three miles, the State's jurisdiction. There is in the Statute an additional into the territorial sea which is 12 miles, 12 nautical miles out. But that's a shared jurisdiction between the Federal government and the State. So from three miles to 12, we actually have some play in there.



We have some say in what happens in that area, but it's a shared jurisdiction and we have to work with the Federal government. And it goes all the way out to the northwest Hawaiian Islands which is the monument out there. And I'm not gonna pronounce the Hawaiian name. I'll probably gonna kill it. I tried many times.

Just a spatial perspective and this is probably the best slide that I've seen yet that kind of depicts where everybody's jurisdiction is. And you see here all the way on your right-hand side, which is the US Territorial Sea which is the 12 nautical miles usually associated with the insular shelf area. And then coming in, you've got the three mile, basically it's the State Conservation District. There's also the CZM enforceable policies from, you know, all the state agencies that have jurisdictions in the ocean. And you have your shoreline which is defined again. It's defined in Statute. And then your shoreline setback which is a minimum of 20 feet. That is what is stated in the Statute. It can go as high as 40, but there is a provision to go more than 40 as well. And then from there it's the County Special Management Area. They define it. The rule of thumb is to the nearest highway away from the coastline, but the County can then to decide to include more if they want to.

And then, you know, you have, from the shoreline up, you do have the different State Land Use Districts which is the Urban, Ag, Rural, Conservation. So a little easier slide to see where everybody's jurisdiction are and where they lie, not including the Feds now. The Feds, that's another, another matter.

So going to the SMA area. The SMA area is within the Coastal Zone Management Area, and this is defined by the County. Usually it begins at the shoreline, extends generally to the nearest highway. The SMA is the most sensitive area of the coastal zone. And like it says there, it's much smaller, obviously, so we kind of show you there a piece of Maui there and how the SMA is plotted. The authorities on SMA Permits in the Counties of Kauai, Hawaii and Maui, you folks are the authority, the Planning Commissions. You do delegate Minor SMA Permits to your Planning Director. Same for the other counties. The only caveat is in Honolulu, it's the Honolulu City Council that is the authority on Major SMA Permits. So they take it one step and they actually do it by ordinance in Honolulu.

Mr. Hiranaga: We're going to take a short recess.

Mr. Asuncion: Okay. No problem.

Mr. Hiranaga: We'll reconvene at 2:35 p.m.

*(The Maui Planning Commission recessed at approximately 2:26 p.m. and reconvened at approximately 2:31 p.m.)*

Mr. Asuncion: Just in time because this is –. If you're going to get anything out of this presentation, this is the punch line on SMA Permits. The key here, and you see all the, on your handout, you know, all the history when it came into effect in the light. But the key thing here is the SMA Permit is a management tool, and it's basically to assure, like the slide says, any development within an SMA is designed and carried out in compliance with the objectives and policies in the SMA

guidelines, and those are in the State Statutes. And that's what we care the most about. And I'll get into some examples and talk a little more deeply into this, this topic as we go on.

You know there's a development versus non development that's in Statute. In fact we recently had some Legislative amendments that are sitting on the Governor's desk, and I'll get into that a little bit later. But it does have "what is a development?" and then from there you determine if you need to, if an SMA Permit is required. But there are also exemptions to that, so there's a list also. It's listed. And some of them when you look at that, when you look at the exemptions, they make sense. I mean, you wouldn't want to basically, you know, it's effort to review especially if they're of a certain magnitude. But the key here, like I said, it is a management tool, and the key, and I'll get into it actually in this next slide, on the SMA Major versus Minor. Right now the threshold is \$500,000. Anything over that is a Major, which would then basically come to you folks. Anything below that is delegated down to your Planning Director to make decisions upon. But the key here is, and we've been struggling with this and this is probably since the beginning of the program, even when originally the threshold was \$25,000. But the key is whether or not the amount of impact, the environmental impact of a project in the SMA is the key to look at. You know, I struggle with does a \$499,999 project have less impact on the environment than a \$500,000? Right and that's the threshold. And the threshold is a convenience factor. My understanding, I wasn't around when the law was created, but my understanding it was a way for the public to kind of have a trigger point on when they need to get involved because the Major because it comes to the Planning Commissions and the City Council in Honolulu, it's public. It becomes a public matter as opposed to – not that you know when your Planning Director gets it it's not a public matter, but, you know, it's a little more restrained. You don't have the public meeting aspect, the hearing process, and the like, so it's more of a convenience trigger. And to this day we're still struggling in our office, you know, because the key is looking at the impacts. Right, so that one dollar, that one dollar less, does it really have one, you know, less impact, and you know we struggle with that connection.

So the amendments in 2001, that's when they actually raised the threshold. For the longest time it was \$125,000. It didn't move with the economy. It didn't move with the cost of living. So last year the Legislature moved it to \$500,000. They also included that single-family residences greater than 7,500 square foot of floor area was a development. It excluded final subdivision approval from the term development, so a final subdivision approval is not a development. And then it exempted DOBOR, the Division of Boating and Ocean Recreation under DLNR from SMA Permits. What happened there was they were, a long time ago they were a part of DOT then got shifted to DLNR, but the exemption was with DOT, right, under the DOT statutes. So when they moved over to a DLNR statute and a chapter, they lost that exemption and so we gave them back. And that allows them, you know, to come in and do their, you know, regular maintenance under small boat harbors and the likes. So we're not talking the big commercial harbors.

2012 Session which we just completed some of the more interesting bills that we had looked at exempting State projects from the SMA Permit. It also went as far as exempting them from EIS processes. We had bills, separate bills for State and County projects. We had projects that are CIP Projects would be exempted from the like. We had bridges and roads that would be exempted. You know everything was an exemption, and, you know, it was in the name of boosting the economy which, you know, I do understand that side, getting people, you know, to work and the like. But they also made a point that this would be streamlining the project, and you know, the Office of Planning felt that we actually oppose a lot of the exemption bills because exemption is not

streamlining. Exemptions, you know, you'll never get that back, have the chance to review that, that project again. And, you know, who knows when they're gonna lift. There are sunset dates on these exemptions right now, but, you know at the beginning of the session you're thinking, it's exemption forever so we were very opposed to that.

We also had a bill to clarify the definition of development. There was a concern whether or not you could concurrently process SMA applications and subdivision applications. That is basically you can take care of that in your rules. But then now we have clarified it in State Statutes, so that is also on the Governor's desk for signature. So we're awaiting all of those bills to be signed, including the climate change adaptation.

Maybe a little bit on the climate change adaptation bill. That actually came out of the work of the Ocean Resources Management Plan Working Group. So you have that copy of the plan, the current plan, in front of you. The Working Group back in 2009 felt that climate change adaptation was important and that's different from mitigation. Mitigation is reducing the green house gases back to 1990, you know, under Kiyoto Protocol, right? That's mitigation. What are those levels? And the Department of Health is actually working on those numbers, what those numbers should be, what is a target for Hawaii. Adaptation is basically you're resigned to it's gonna happen. For example, sea level rise is going to happen. And when sea level rise happens, you basically, what are we going to do, what can we do now for that future scenario? So the bill basically changes the Hawaii State Plan and puts in priority guidelines for climate change adaptation. What that does in the Hawaii State Plan, it makes all State agencies and the Counties also you need to be consistent with the Hawaii State Plan in your planning activities. So now you have these priority guidelines.

The next step that we're gonna do, and we're actually already starting is working with ICAP which is another center of excellence out of the Sea Grant College. And we're working with the Counties to see how they can use or implement that policy with what they got now in their existing rule. We do not want to create another layer of review, another bureaucratic level of review, but basically look at your processes now, your review processes for your permits and your planning and the like, and within there how can you implement some of these climate change adaptation measures? Each County is gonna be different. We realized that. So that's why we didn't go into the Legislature saying that you have to plan, for example, one foot by 2050. Because the thinking is number one, it's a number that's out there, but no one can confirm the number because better numbers are going to come. And if we got to a position of let's just plan for one foot sea level rise, what if it's two feet in two years? Say the projection changes and you've locked people in to planning for a certain scenario. So we actually went to the Leg when bills like that started to pop up and we said, why don't you plan for a range. That's what planning is about. You don't plan for a specific number. You plan to cover, you know, a wide range to make sure that you've captured it. And that's what actually the Army Corp does today with for their projects. They require them to do like a low, medium, high sea level rise scenario for their civil works projects, so that's kind of what the example is. But right now what we're doing is we're working with the Counties to see how they can implement it. And then it's either gonna be through rules or regs. I hear, you know, you folks are already doing that with Hawaii County. That might be the way. Kauai County is looking at re-looking at their erosion rate setback, setback based on erosion rate to include now sea level rise. That's a hot topic on Kauai when we were there a couple of week ago. The Planning Commission had basically a three hour discussion after my presentation, and you know, worked through lunch to figure it out, and they still deferred it. There's still more discussion to be had. So

each County is gonna different and we realized that so we basically want to work with the Counties and see how we can implement that climate change adaptation policy that's in the State Plan.

Mr. Hiranaga: Excuse me Leo, Corporation Counsel wants to ask you a question.

Mr. Asuncion: Sure.

Mr. Giroux: Just about the Legislative changes, Act 153. When they, they passed the exemption that the final subdivision is not a development, how is your office taking that? Because it's obvious there's internal inconsistency and it's a reaction to Leslie where the Supreme Court told us that we couldn't even give a preliminary subdivision without an SMA. And now we have the Leg saying final subdivision is not a development. So how are you guys interpreting that and how is it affecting the rating of Leslie.

Mr. Asuncion: Yeah, we're interpreting it as because there's that tentative subdivision approval, right, in this process, so you have this intermediary step before final. So that's why the final is not really a development. We tried to also go back into Legislative history, and you know, to me the way I read it, and this is just my personal opinion as the manager and as a planner, the whole subdivision notion of putting it in was a trigger point for increasing the intensity of the use of the land. That's the key point. That's what we wanted to make sure that if you were increasing the intensity of the use and particularly in an SMA area or on the coast line that was a trigger to say you might need an SMA permit, right? And so one of the items was, you know, if somebody comes with a subdivision obviously you're increasing a land and then you have some certain exemptions, right? If it's a large 20 acres or you're dividing into four parcels then that's the one time, the one time subdivision rule. But, you know, that's how I see it. I really see it as what, you know, basically a trigger point for Planning Departments and our office too, and for Planning Commissions to say, hey, you might need an SMA Permit just to consider, you know, whether or not you need it.

Mr. Giroux: So you don't see this amendment as affecting the face of Leslie at all?

Mr. Asuncion: Well, this was, that was last year. I mean this year we had another one, right? We had another amendment and it's a little convoluted on the language that's going in. And so that one is yet to be seen. I know that, you know, I'm working with our Attorney General because he's looking at it and he's like you know.

Mr. Giroux: Has he said the same thing about –

Mr. Asuncion: What does this mean and how does it impact so –? And he needs to give a recommendation, you know, to the Governor on the sheet. We, Office of Planning, at this time, you know, we noticed that it was something to help the Counties better understand. So we've said, we told the Governor, you know, approve it and then we need to work on the mechanics of it.

Mr. Giroux: Because, I mean, the way I see it is the Supreme Court said that a preliminary subdivision is a subdivision, therefore it's a trigger to your SMA Permit.

Mr. Asuncion: For an SMA Permit.

Mr. Giroux: Right.

Mr. Asuncion: Yeah.

Mr. Giroux: So once you do your preliminary subdivision SMA process then what we're saying if you want to look at that and try to make it consistent then you're just saying, well, when you get your final subdivision you've already supposedly done your SMA review.

Mr. Asuncion: Correct. Correct. Because it's the first permit, right, theoretically?

Mr. Giroux: Theoretically.

Mr. Asuncion: Yes.

Ms. McLean: Leo, if I could just note, I believe we're going to lose our quorum. We're good at three o'clock, so –

Mr. Asuncion: Okay.

Ms. McLean: – speak quickly.

Mr. Asuncion: Okay.

Ms. McLean: Thanks.

Mr. Buika: As I look through the slides and most of them are in the SMA that I can cover, in future presentation. I'd like to leave some time for question and whatever administrative working issues.

Mr. Hiranaga: We took care of the administrative issues.

Mr. Asuncion: Let me just – you have this all in your handout, and like Jim said he's gonna cover it as well. We do have a guide online and the website is there. We actually just updated it for all the Legislative changes. The last one was in '06, but since then there's been changes. But it's a real handy tool. This is what we actually give out to the public, so it's online, it's real easy to read, a quick guide on the process. We're actually getting a few, about 1,000 copies printed so we'll get some to the Planning Departments because I know that they sometimes give that out as well when the public comes in. You know, eight page color, a lot of graphics about the process so that you can point to that.

Objectives and policies, those are all in the Statutes and he'll cover all that. It's actually my last slide. Yeah, so like I said we don't only do regulations and beyond, you know, the Coastal Non-Point and CELCP and all of that, we do have a Ocean Resources Management Plan. The first plan came out in the 1990's. It was totally revised as far as format and focus in 2006, and that's the plan that we have now. We're mandated to update it. We're mandated to update the plan every five years so we're actually in an update year and right now and that's why I actually have to run too because I need to fly to Lanai. We have a public listening session tonight on Lanai, and we're actually gonna be on Maui tomorrow night at the Paia Community Center. And I think we had some

fliers on those but we're going statewide. And right now it's more of a getting information from the public, anything that they think. And it's not so much, you know, you can read the plan, but, you know, just off the top of your head type of stuff. What are issues that are out there? What do we need to look at as far as coastal and ocean management? And then we're gonna come out with a draft. And the draft plan will be available in the August/September time frame. We'll let that be out in the public for about a month, four to six weeks, and then we're gonna go one more round of public listening session statewide. And then that would be more comments on the draft plan, so it might be a little easier to comment. But, having said that, we're gonna accept comments all the way through, you know, until we come to a point that we need to really finalize the plan, which is probably be next year, April to May time frame. That's the time frame right now that we're projecting. And you can either call us. And you'll see numbers on the next slide. You can e-mail us. You can send in your comments. We still have a fax machine with thermo paper. No actually, it's regular paper now, but I think we got rid of the thermo one. I hope we did. But you can get your comments in. We also have a dedicated e-mail address that you can send comments to, and any way that you want.

And you also have two, actually, for the County of Maui, you have five MACZAC members, the Marine and Coastal Zone Advocacy Council. On Maui your representatives are Jim Coon from Triology, Donna Brown from the Maui Community College. She's with the Marine Options Program Coordinator, and Henry Lau, he's retired, he lives upcountry. On Molokai you have Mike Sabas. And on Lanai you have Robin Kaye. They are my eyes and ears on the islands to get any type of comment, any type of issues that might be coming up. Sometimes it's easier to just talk to somebody that's on the island instead of calling us and the likes. So they are there for your folks and their contact information is also on our website so you can get in touch with those guys.

But my last slide here is my staff and I gave their phone numbers so you can call any one of them. They're there to help. And Marnie Meyer is the person who's doing our ORMP so she has the spot light right now as far as our planning staff. She's the one going, traveling throughout the State right now for these public listening sessions. But all of these people here are on staff. You can give them a call if you have any questions on those areas. They'd be glad to help or point you in the right direction on who to contact and what to do, so other than that, thank you very much. And if you guys do have any questions, I'll field them now and then I'll stick around for a little while after as well.

Mr. Hiranaga: Thank you very much. Questions Commissioners? Commissioner Shibuya?

Mr. Shibuya: On this one slide, Act 153, the first point, is that a, after that is that an "and" or an "or" on the second point where the single family residence is greater than 7,500 feet. That sounds like a castle not a single family residence.

Mr. Asuncion: Yes. Correct. The interpretation is what is considered floor area in the Counties. What do you consider in a floor area? Because you could have 3,500/3,500, right which would get to 7,000, so that would not be, right? Because you're under 7,500. But sometimes you only look at footprint. So it depends on how the County interprets floor area in your zoning codes.

Mr. Shibuya: So it's an "or" or is it "and"? It gives that threshold and on a single family square footage.

Mr. Asuncion: Single family residence with greater than 7,500 square feet, all floor area are included as development.

Mr. Shibuya: And then that raises the valuation threshold. So if it's within or less than \$125,000.

Mr. Asuncion: No, no, no. Okay, the first bullet point was it raised the threshold from \$125,000 for Major, but now it's \$500,000. So \$500,000 is the threshold. So anything below \$500,000 is Minor, SMA Minor and anything over \$500,000 is SMA Major.

Mr. Shibuya: Okay, so it's not an "or."

Mr. Asuncion: Yeah, so that \$125,000 is gone. That \$125,000 number was –

Mr. Shibuya: Is no longer there.

Mr. Asuncion: Yeah. It was amended last year.

Mr. Shibuya: Thank you.

Mr. Hiranaga: Commissioner Hedani?

Mr. Hedani: You know, you were saying that DOT has an exemption on this program?

Mr. Asuncion: Yes.

Mr. Hedani: So like in the case of the Ukumehame Project or the one on Piilani Highway Project they wouldn't have come under our jurisdiction?

Mr. Asuncion: Not DOT Highways, DOT Harbors –

Mr. Hedani: Oh, I see.

Mr. Asuncion: – have that.

Mr. Hedani: Highways is subject to?

Mr. Asuncion: Yes. There was a bill for DOT Airports, this year, but did not pass. But we were –. We actually –. That was interesting because we actually supported them because they wanted to work with us to still do the review. So we were gonna create a streamline review for airport projects, but that did not pass the Legislature. But we are looking as an office and working with the County Planning Departments to look at our SMA process. How can we streamline it? And you know, it's gonna start basically with State projects and we may want to limit them. But then eventually we want to get a process desk efficient, yeah? Because a lot of it is duplicated review. That's what we're hearing. Right, we do one permit, you come in, we do it, and you're doing the same things again for another permit, so things like that.

Mr. Hiranaga: Commissioner Hedani?

Mr. Hedani: My only comment to that would be that, you know, the State guys should go through the pain and suffering that the private guys go through so they understand how much pain and suffering there is.

Mr. Asuncion: No, I agree. I agree with that. I actually agree with that, but, you know, my thinking of like streamlining is like say you're doing improvements within the building and the building already got the permit. So if you're within the building you're not impacting outside, then, you know, that's like one level. And maybe another level is you're adding a parking lot so now you put some impervious, so there's some review. But if you're putting up a brand new building, that's like the highest review. You're gonna have to go. So maybe a tiered type which is a little bit more efficient because a lot of maintenance programs come through permitting and you sit there going through the whole process for something that's being done inside the building. But it's in the SMA so you need to come in. Or it's a certain dollar threshold. Right, you know, again, going back to what's the real impact? Right, what's the impact on the coastal area and the ocean that an indoor maintenance might have but they're sitting on the SMA? So those kind of mechanism that we need to work on and see all the difference. So we're trying to gather data on the different types of permitting that all of the Counties have done. So that's the start that you see. Is it really a need? Right? Because if not, then we can go back to the Governor and say, hey, you know, the system works fine right now, so we don't know that's part of the study that we're doing in the interim.

Mr. Hiranaga: Alright, we're gonna have to stop here because we're going to be losing quorum. I guess Leo, are you going to hang around in case someone wants to speak to you? Thank you very much. Jim, do you have any closing remarks?

Mr. Buika: No, other than we can do at a future Commission meeting, talk a little bit more about the SMA Rules and the Shoreline Rules, and the Shoreline Setback Variance also when you're available on the future Commission meetings. So thank you very much for taking your time today and having these folks talk. Thank you.

Mr. Hiranaga: Alright, thank you. So if there's no objection, this meeting is adjourned.

**F. NEXT REGULAR MEETING DATE: JUNE 12, 2012**

**G. ADJOURNMENT**

The meeting was adjourned at 3:00 p.m.

Submitted by,

LEILANI A. RAMORAN-QUEMADO  
Secretary to Boards and Commissions II

For CAROLYN J. TAKAYAMA-CORDEN  
Secretary to Boards and Commissions II



**RECORD OF ATTENDANCE**

**Present**

Donna Domingo,  
Wayne Hedani  
Kent Hiranaga, Chairperson  
Ivan Lay, Vice-Chair  
Warren Shibuya  
Penny Wakida

**Excused**

Keone Ball  
Jack Freitas  
Max Tsai

**Others**

Michele McLean, Planning Department  
Jeffrey Dack, Staff Planner  
Jim Buika, Staff Planner  
Kurt Wollenhaupt, Staff Planner  
Carolyn Cortez, Staff Planning  
Tara Owens, Coastal Processes and Hazard Specialist, UH Sea Grant College Program  
James Giroux, Department of the Corporation Counsel  
David Goode, Department of Public Works